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Filing date: **12/02/2021**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**Petition for Cancellation**

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

**Petitioner Information**

Name	General Conference Corporation of Seventh-day Adventists		
Entity	Corporation	Citizenship	District of Columbia
Address	12501 OLD COLUMBIA PIKE SILVER SPRING, MD 20904 UNITED STATES		

Attorney information	BASSAM N. IBRAHIM BUCHANAN INGERSOLL & ROONEY, PC 1737 KING STREET, SUITE 500 ALEXANDRIA, VA 22314 UNITED STATES Primary Email: bassam.ibrahim@bipc.com No phone number provided.		
Docket Number	1034138-1169		

**Registration Subject to Cancellation**

Registration No.	6540553	Registration date	10/26/2021
Registrant	The Davidian Seventh-day Adventist Association 20412 FARM ROAD 1025 EXETER, MO 65647 UNITED STATES		

**Goods/Services Subject to Cancellation**

<p>Class 009. First Use: 2019/11/10 First Use In Commerce: 2019/11/10 All goods and services in the class are subject to cancellation, namely: Audio and video recordings featuring information on religion, history, religious history, Christian living, health, and Bible prophecy; Electronic publications, namely, books, articles, pamphlets, presentation slides featuring information on religion, history, religious history, Christian living, health, and Bible prophecy recorded on computer media; Video recordings featuring information on religion, history, religious history, Christian living, health, and Bible prophecy; Visual and audio recordings featuring information on religion, history, religious history, Christian living, health, and Bible prophecy; Audio books in the field of religion, history, religious history, Christian living, health, and Bible prophecy; Audio recordings featuring information on religion, history, religious history, Christian living, health, and Bible prophecy; Digital materials, namely, CDs, DVDs, and downloadable Audio Files featuring information on religion, history, religious history, Christian living, health, and Bible prophecy; Downloadable e-books in the field of religion, history, religious history, Christian living, health, and Bible prophecy; Downloadable electronic books in the field of religion, history, religious history, Christian living, health, and Bible prophecy; Downloadable multimedia file containing audio relating to religion, history, religious history, Christian living, health, and Bible prophecy; Downloadable multimedia file containing video relating to religion, history, religious history, Christian living, health, and Bible prophecy; Downloadable video recordings featur-</p>
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ing information on religion, history, religious history, Christian living, health, and Bible prophecy; E-books featuring information on religion, history, religious history, Christian living, health, and Bible prophecy recorded on computer media; Electronic books featuring information on religion, history, religious history, Christian living, health, and Bible prophecy recorded on computer media
Class 016. First Use: 1966/05/27 First Use In Commerce: 1966/05/27 All goods and services in the class are subject to cancellation, namely: Printed pamphlets, brochures, manuals, books, booklets, leaflets, informational flyers, informational sheets and newsletters, adhesive backed stickers, and kits comprised solely of one or more of the foregoing materials in the field of religion, history, religious history, Christian living, health, and Bible prophecy; Books in the field of religion, history, religious history, Christian living, health, and Bible prophecy; Religious books; Flip books; Hymn books; Index books; Song books; Charts in the field of religion, history, religious history, Christian living, health, and Bible prophecy
Class 045. First Use: 1965/10/20 First Use In Commerce: 1965/10/20 All goods and services in the class are subject to cancellation, namely: Conducting religious ceremonies; Ecclesiastical services, namely, ordaining ministers to perform religious ceremonies; Ministerial services, namely, holding spiritual retreats to assist religious leaders, both clergy and lay, to develop and enhance their spiritual lives; Providing on-line information in the field of spirituality, self-help, and personal empowerment subject matters; Conducting religious prayer services; Conducting religious sermons; Organization of religious meetings; Religious services, namely, prayer meetings; Christian spiritual counseling services; Religious and spiritual services, namely, conducting religious worship, marriage ceremonies, baptismal ceremonies, baby dedications, bereavement ceremonies, and religious counseling

**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
Dilution by tarnishment	Trademark Act Sections 14(1) and 43(c)
Fraud on the USPTO	Trademark Act Section 14(3); In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)

**Marks Cited by Petitioner as Basis for Cancellation**

U.S. Registration No.	1177185	Application Date	05/07/1980
Registration Date	11/10/1981	Foreign Priority Date	NONE
Word Mark	SEVENTH-DAY ADVENTIST		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 1861/00/00 First Use In Commerce: 1861/00/00 Religious Books, Magazines, Pamphlets, Newsletters, Brochures, Encyclopedias, Dictionaries, Commentaries, Fliers, Bulletins, Yearbooks, Booklets and Bibles</p> <p>Class 036. First use: First Use: 1973/00/00 First Use In Commerce: 1973/00/00 Establishment and Administration of Employee Health Care and Benefit Programs and Medical Insurance Programs</p> <p>Class 041. First use: First Use: 1894/00/00 First Use In Commerce: 1894/00/00 Educational Instruction Services in Academics at Grade School, High School and College Level; Film Production and Distribution Services</p> <p>Class 042. First use: First Use: 1860/00/00 First Use In Commerce: 1860/00/00 Health Care Services-Namely, Hospital, Dental, Pharmaceutical, Nursing Home,</p>		

	and Medical Laboratory Services; Conducting Religious Observances and Missionary Services
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U.S. Registration No.	1171760	Application Date	05/07/1980
Registration Date	09/29/1981	Foreign Priority Date	NONE
Word Mark	GENERAL CONFERENCE OF SEVENTH-DAY ADVENTISTS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1963/00/00 First Use In Commerce: 1963/00/00 Church Services-Namely, Rendering Ministerial and Religious Counseling Services		

Attachments	Petition for Cancellation DSDAA.pdf(137170 bytes )
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Signature	/Bassam N. Ibrahim/
Name	Bassam N. Ibrahim
Date	12/02/2021

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

General Conference Corporation  
of Seventh-day Adventists

Petitioner

v.

The Davidian Seventh-Day  
Adventist Association

Registrant

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Cancellation No. \_\_\_\_\_

**PETITION FOR CANCELLATION**

General Conference Corporation of Seventh-day Adventists ("Petitioner"), a Washington D.C. corporation located and doing business at 12501 Old Columbia Pike, Silver Spring, Maryland, 20904-6600, believes that it has been and will continue to be damaged by the continued registration of U.S. Registration No. 6,540,553, owned by The Davidian Seventh-day Adventist Association ("Registrant") for the mark THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION ("Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark"), and hereby petitions to cancel said registration.

The grounds for the cancellation are as follows:

1. Registrant is a Missouri corporation located and doing business at 20412 Farm Road 1025, Exeter, Missouri, 65647.

2. Registrant is the record owner of U.S. Reg. No. 6,540,553 for Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark in connection with "Audio and video recordings featuring information on religion, history, religious history, Christian living, health, and Bible prophecy; Electronic publications, namely, books, articles, pamphlets,

presentation slides featuring information on religion, history, religious history, Christian living, health, and Bible prophecy recorded on computer media; Video recordings featuring information on religion, history, religious history, Christian living, health, and Bible prophecy; Visual and audio recordings featuring information on religion, history, religious history, Christian living, health, and Bible prophecy; Audio books in the field of religion, history, religious history, Christian living, health, and Bible prophecy; Audio recordings featuring information on religion, history, religious history, Christian living, health, and Bible prophecy; Digital materials, namely, CDs, DVDs, and downloadable Audio Files featuring information on religion, history, religious history, Christian living, health, and Bible prophecy; Downloadable e-books in the field of religion, history, religious history, Christian living, health, and Bible prophecy; Downloadable electronic books in the field of religion, history, religious history, Christian living, health, and Bible prophecy; Downloadable multimedia file containing audio relating to religion, history, religious history, Christian living, health, and Bible prophecy; Downloadable multimedia file containing video relating to religion, history, religious history, Christian living, health, and Bible prophecy; Downloadable video recordings featuring information on religion, history, religious history, Christian living, health, and Bible prophecy; E-books featuring information on religion, history, religious history, Christian living, health, and Bible prophecy recorded on computer media; Electronic books featuring information on religion, history, religious history, Christian living, health, and Bible prophecy recorded on computer media” in Class 9; “Printed pamphlets, brochures, manuals, books, booklets, leaflets, informational flyers, informational sheets and newsletters, adhesive backed stickers, and kits comprised solely of one or more of the foregoing materials in the field of religion, history, religious history, Christian living, health, and Bible

prophecy; Books in the field of religion, history, religious history, Christian living, health, and Bible prophecy; Religious books; Flip books; Hymn books; Index books; Song books; Charts in the field of religion, history, religious history, Christian living, health, and Bible prophecy” in Class 16; and “Conducting religious ceremonies; Ecclesiastical services, namely, ordaining ministers to perform religious ceremonies; Ministerial services, namely, holding spiritual retreats to assist religious leaders, both clergy and lay, to develop and enhance their spiritual lives; Providing on-line information in the field of spirituality, self-help, and personal empowerment subject matters; Conducting religious prayer services; Conducting religious sermons; Organization of religious meetings; Religious services, namely, prayer meetings; Christian spiritual counseling services; Religious and spiritual services, namely, conducting religious worship, marriage ceremonies, baptismal ceremonies, baby dedications, bereavement ceremonies, and religious counseling” in Class 45 (hereinafter collectively referred to as “Registrant’s Goods and Services”).

3. The continued registration of Registrant’s THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark, to which Registrant is not entitled, has impaired and is likely to continue to unfairly impair the ability of Petitioner to freely use and register Petitioner’s SEVENTH-DAY ADVENTIST Marks . Therefore, Petitioner has standing to bring this proceeding.

#### **COUNT I: LIKELIHOOD OF CONFUSION**

4. Petitioner is a non-profit corporation established to hold title to the assets of the Seventh-day Adventist Church, including its trademarks.

5. The Seventh-day Adventist Church is a worldwide Protestant Christian denomination with over 20 million members, including over 1.2 million members and over 5,000 churches in the United States. The Seventh-day Adventist Church also operates more than 800 primary and secondary schools in the United States; 11 colleges and universities; over 140 health care institutions, including 65 hospitals; more than 20 radio stations; and two satellite television networks.

6. The founders of the Seventh-day Adventist Church adopted the name “Seventh-day Adventists” at a meeting in Battle Creek, Michigan in 1860. In May of 1863, delegates from Seventh-day Adventist churches across the United States attended a larger conference at which the General Conference of Seventh-day Adventists was formed, thus marking the official beginning of the Seventh-day Adventist Church as a single unified body.

7. Registrant and its licensees have used the marks SEVENTH-DAY ADVENTIST to identify and distinguish the Seventh-day Adventist Church’s goods and services since at least as early as 1860.

8. Registrant is the owner of U.S. Reg. No. 1,177,185 for the mark SEVENTH-DAY ADVENTIST in connection with “Religious Books, Magazines, Pamphlets, Newsletters, Brochures, Encyclopedias, Dictionaries, Commentaries, Fliers, Bulletins, Yearbooks, Booklets and Bibles” in Class 16; “Establishment and Administration of Employee Health Care and Benefit Programs and Medical Insurance Programs” in Class 36; “Educational Instruction Services in Academics at Grade School, High School and College Level; Film Production and Distribution Services” in Class 41; and “Health Care Services-Namely, Hospital, Dental,

Pharmaceutical, Nursing Home, and Medical Laboratory Services; Conducting Religious Observances and Missionary Services” in Class 42.

9. Registrant is also the owner of U.S. Reg. No. 1,171,760 for the mark GENERAL CONFERENCE OF SEVENTH DAY ADVENTISTS in connection with “church services, namely, rendering ministerial and religious counseling services.”

10. The marks listed in Paragraphs 8 and 9 are hereinafter collectively referred to as “Petitioner’s SEVENTH-DAY ADVENTIST Marks.” The goods and services covered by these registrations shall be referred to as “Petitioner’s Goods and Services.”

11. Consumers throughout the United States have come to recognize Petitioner’s SEVENTH-DAY ADVENTIST Marks and to associate them exclusively with Petitioner. Petitioner has developed an extremely high level of acquired distinctiveness and goodwill in Petitioner’s SEVENTH-DAY ADVENTIST Marks among consumers in the United States.

12. Petitioner’s use of Petitioner’s SEVENTH-DAY ADVENTIST Marks in connection with Petitioner’s Goods and Services commenced long prior to any use by Registrant of Registrant’s THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark in connection with Registrant’s Goods and Services.

13. Petitioner has continuously used Petitioner’s SEVENTH-DAY ADVENTIST Marks in connection with Petitioner’s Goods and Services without interruption since long prior to any use by Registrant of Registrant’s THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark in connection with Registrant’s Goods and Services.

14. Registrant’s THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark incorporates Petitioner’s Mark SEVENTH-DAY ADVENTIST and is highly similar to



Petitioner's previously registered SEVENTH-DAY ADVENTIST Marks in appearance, pronunciation, and commercial impression.

15. Registrant's Goods and Services are identical or virtually identical to Petitioner's Goods and Services.

16. Registrant's Goods and Services will be offered and provided to the same classes of consumers as Petitioner's Goods and Services.

17. Registrant's Goods and Services will be marketed and provided through the same channels of trade as Petitioner's Goods and Services.

18. Registrant adopted and began using Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark with actual and constructive knowledge of Petitioner's prior rights in Petitioner's SEVENTH-DAY ADVENTIST Marks, and with the intent to confuse and mislead consumers into mistakenly believing that Registrant's Goods and Services are provided by, licensed by, or associated with Petitioner.

19. Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark so resembles Petitioner's previously registered SEVENTH-DAY ADVENTIST Marks as to be likely to cause confusion or mistake or to deceive, by creating the erroneous impression that Registrant's Goods and Services are provided by Petitioner, or that Registrant's Goods and Services are authorized by, licensed by, or associated with Petitioner.

20. The continued registration of U.S. Reg. No. 6,540,553 for Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark is contrary to 15 U.S.C. 1052(d) and violates and diminishes the superior rights of Petitioner in Petitioner's SEVENTH-DAY ADVENTIST Marks.

## **COUNT II: DILUTION**

21. Due to Petitioner's longstanding and continuous use of Petitioner's SEVENTH-DAY ADVENTIST Marks, Petitioner's millions of dollars of sales of Petitioner's Goods and Services under Petitioner's SEVENTH-DAY ADVENTIST Marks, Petitioner's extensive advertising and marketing of Petitioner's SEVENTH-DAY ADVENTIST Marks, the extensive unsolicited media coverage of Petitioner's SEVENTH-DAY ADVENTIST Marks in national, regional, and local media, Petitioner's successful efforts to enforce Petitioner's rights in Petitioner's SEVENTH-DAY ADVENTIST Marks against infringers, and other factors, Petitioner's SEVENTH-DAY ADVENTIST Marks have become famous among the general consuming public of the United States.

22. Petitioner's SEVENTH-DAY ADVENTIST Marks became famous among the general consuming public of the United States long prior to the March 12, 2020 filing date of Application Serial No. 88/831,784 for Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark, and/or any use by Registrant of Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark.

23. Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark is highly similar to Petitioner's SEVENTH-DAY ADVENTIST Marks.

24. Registrant adopted Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark with actual and constructive knowledge of Petitioner's prior rights in Petitioner's SEVENTH-DAY ADVENTIST Marks, and with the intent to create an association with Petitioner's SEVENTH-DAY ADVENTIST Marks and to trade off of the fame and goodwill associated with Petitioner's SEVENTH-DAY ADVENTIST Marks.

25. The continued registration of U.S .Reg. No. 6,540,553 for Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark is likely to cause dilution of Petitioner's famous SEVENTH-DAY ADVENTIST Marks.

26. The continued registration of Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark violates and diminishes the prior and superior rights of Petitioner in Petitioner's SEVENTH-DAY ADVENTIST Marks in violation of 15 U.S.C. 1065 and 15 U.S.C. 1125(c).

### **COUNT III: FRAUD**

27. Registrant filed Application Serial No. 88/831,784 for Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark in connection with Registrant's Goods and Services on March 12, 2020, alleging use in commerce under Section 1(a) of the Trademark Act for certain goods and services, and intent-to-use in connection with the remaining goods and services.

28. Registrant was not using Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark in connection with some or all of the goods and services covered by Registrant's Section 1(a) claim at the time Registrant filed Application Serial No. 88/831,784 for Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark on March 12, 2020.

29. Registrant stated in the sworn Declaration submitted with Application Serial No. 88/831,784 for Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark that "the mark is in use in commerce on or in connection with the goods/services in the application."

30. Registrant's statement in the sworn Declaration submitted with Application Serial No. 88/831,784 that "the mark is in use in commerce on or in connection with the goods/services in the application" was false.

31. Registrant knew that the statement in the sworn Declaration submitted with Application Serial No. 88/831,784 that "the mark is in use in commerce on or in connection with the goods/services in the application" was false at the time the declaration was signed on March 12, 2020.

32. Registrant made the false statement in the sworn Declaration with the intent to deceive the USPTO into granting Registrant a trademark registration for Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark to which Registrant was not entitled.

33. Registrant subsequently filed a Statement of Use on September 13, 2021 in connection with the goods and services that were not covered by the Section 1(a) claim at the time the application was filed.

34. Registrant stated in the sworn Statement of Use submitted on September 13, 2021 in connection with Application Serial No. 88/831,784 for Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark that "the mark is in use in commerce on or in connection with all of the goods/services" in the application.

35. Registrant was not using Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark in connection with some or all of the goods and services covered by the Statement of Use at the time Registrant filed the Statement of Use in connection with Application Serial No. 88/831,784 on September 13, 2021.

36. Registrant's statement in the sworn Statement of Use that "the mark is in use in commerce on or in connection with all of the goods/services" was false.

37. Registrant knew that the statement in the sworn Statement of Use that "the mark is in use in commerce on or in connection with all of the goods/services" was false at the time the declaration was signed on September 13, 2021.

38. Registrant made the false statements in the sworn Declaration and the sworn Statement of Use with the intent to deceive the USPTO into granting Registrant a trademark registration for Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark to which Registrant was not entitled.

39. The false statements in the sworn Declaration and the sworn Statement of Use that the mark was in use in commerce on or in connection with all of the goods/services in the application were material because the USPTO would not have granted a registration for THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION to Registrant without these false statements.

40. Registrant's false statements that Registrant was using the mark in commerce in connection with all of the goods/services in the application constitute fraud upon the USPTO.

41. Registrant's U.S. Reg. No. 6,540,553 for Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark should be cancelled pursuant to 15 U.S.C. 1064(3) on the grounds of fraud.

#### **COUNT IV: IMPROPER DISCLAIMER**

42. The Examining Attorney responsible for Registrant's Application Serial No. 88/831,784 for Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION

Mark originally cited Petitioner's U.S. Reg. Nos. 1,171,760 and 1,177,185 for Petitioner's SEVENTH-DAY ADVENTIST Marks as bars to registration of Registrant's Mark under Section 2(d) of the Trademark Act in an office action dated June 4, 2020.

43. On December 1, 2020, Registrant submitted a response to the office action, in which Registrant falsely argued that Petitioner's mark SEVENTH-DAY ADVENTIST was weak, descriptive, and entitled to a narrow scope of protection.

44. As a direct result of Registrant's false and misleading arguments, the Examining Attorney sent an e-mail to Registrant's counsel on December 10, 2020, offering to withdraw the likelihood of confusion refusal if Registrant submitted a disclaimer of the term SEVENTH-DAY ADVENTIST ASSOCIATION.

45. Registrant's counsel accepted the Examining Attorney's offer via e-mail on December 16, 2020, and Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark was subsequently registered with the disclaimer "No claim is made to the exclusive right to use 'SEVENTH-DAY ADVENTIST ASSOCIATION' apart from the mark as shown."

46. The disclaimer included in U.S. Reg. No. 6,540,553 for Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark is in violation of the USPTO's rules. The Trademark Manual of Examining Procedure states that a mark containing the registered mark of another may not be registered merely by disclaiming the prior mark. TMEP § 1213.09. "A refusal of registration under Section 2(d) may not be avoided by disclaiming the mark of another." *Id.*

47. Petitioner's SEVENTH-DAY ADVENTIST Mark is registered on the Principal

Register, which means it is entitled to presumptions of validity, distinctiveness, and Petitioner's ownership of and exclusive right to use the mark. 15 U.S.C. §1115(a). By allowing Registrant to disclaim the registered SEVENTH-DAY ADVENTIST mark, the Examining Attorney not only violated Office policy, but the presumptions afforded to Petitioner under law as the owner of a federal registration.

48. The continued registration of Registrant's THE DAVIDIAN SEVENTH-DAY ADVENTIST ASSOCIATION Mark with a disclaimer of SEVENTH-DAY ADVENTIST ASSOCIATION is likely to cause significant harm to Petitioner, because potential future applicants reviewing the USPTO's database are likely to mistakenly believe that SEVENTH-DAY ADVENTIST is merely a descriptive term that is free for all to use and register, rather than a distinctive mark belonging exclusively to Petitioner.

WHEREFORE, Petitioner prays that this Petition for Cancellation be granted, that U.S. Registration No. 6,540,553 be cancelled, and for any and all other relief that the Trademark Trial and Appeal Board may deem just and proper.

Respectfully submitted,

**GENERAL CONFERENCE CORPORATION  
OF SEVENTH-DAY ADVENTISTS**

Date: December 2, 2021

/Bassam N. Ibrahim/

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