

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

MICHAEL FOUNDATION, INC.,)
a Foreign corporation,)
)
Plaintiff and Defendant-in-Counterclaim,)
)
v.)
)
URANTIA FOUNDATION,)
an Illinois Charitable Trust,)
)
Defendant and Counterclaimant.)
)
- AND -)
)
URANTIA FOUNDATION,)
)
Counterclaimant and Third Party Plaintiff,)
)
v.)
)
HARRY McMULLAN III,)
a citizen of Oklahoma,)
)
Third Party Defendant,)
)
and MICHAEL FOUNDATION, INC.,)
a Foreign corporation)
)
Defendant-in-Counterclaim.)

Case No. CIV-00-885-W

**URANTIA FOUNDATION’S BRIEF IN SUPPORT
OF ITS MOTION FOR PARTIAL SUMMARY JUDGMENT**

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I. Introduction

For almost a decade, Harry McMullan III has used his personal wealth and influence within three organizations to wage an assault on the intellectual property rights held in trust for nearly fifty years by Urantia Foundation (“UF”), a Chicago-based non-profit, public charitable trust. 1) McMullan (directly and indirectly, through a non-profit organization he controls known as Asoka Foundation) provided over \$73,000 in financial support for Kristen Maaherra’s recent and unsuccessful legal challenge to the *same intellectual property rights at issue in this case*. Urantia Foundation v. Maaherra, 114 F.3d 955 (9th Cir. 1997) (copyright); Urantia Foundation v. Maaherra, 895 F. Supp. 1338, 1342-43 (D. Ariz. 1995) (trademarks). 2) At McMullan’s suggestion, the Fellowship, in which McMullan has served on the Executive Committee since 1979, both a) published an unauthorized, competing Uversa Press edition of *The Urantia Book* in 1996, and b) retained Ross Plourde, McMullan’s longtime lawyer, to file an *amicus curiae* brief on behalf of Maaherra before the Ninth Circuit.¹ 3) Michael Foundation (“MF”), another non-profit corporation controlled by McMullan, filed this lawsuit attempting to invalidate the copyright in *The Urantia Book*. This case represents McMullan’s third bite at the apple. See Boston Scientific Corp. v. Schneider (Europe) AG, 983 F. Supp. 245, 257-260 (D. Mass. 1997) (barring party from challenging patent rights due to its awareness of previous litigation, its support of unsuccessful litigant, and identity of interests with unsuccessful litigant).

McMullan and MF (the “opposing parties”) gave rise to the instant case because they 1) published *Jesus – a New Revelation* (“JANR”), which comprises the last 76 consecutive chapters (“Papers”) of *The Urantia Book*; and 2) appropriated several Internet domain names that make

¹ After the appeal proved unsuccessful, the Fellowship and UF reached a settlement of litigation arising from alleged acts of copyright and trademark infringement by the Fellowship. These facts are set forth in the McMullan Dep., pp. 65-66, the Second McMullan Dep., pp. 56, 88, and the Jameson Declaration, ¶ 3-7.

use of the registered URANTIA® and URANTIAN® trademarks of Urantia Foundation. Despite the previously unsuccessful efforts to invalidate the copyright and trademark rights of UF, the central, albeit flawed, defense in this case is that the rights in question are not valid.

The recent history is more appalling because McMullan, a reader of *The Urantia Book* for over thirty years, previously acknowledged the validity of the copyright in *The Urantia Book*, in 1) a written contract to assign his *Key Word Index to The Urantia Book* to UF for publication, and 2) past copyright licenses for derivative works McMullan authored, such as *21 Steps to a Spiritual Awakening*. In one letter McMullan wrote to UF, he stated his *support* for the enforcement of the copyright. Facts, ¶50 (below).

This motion seeks summary judgment declaring UF's copyright in *The Urantia Book* and UF's incontestable URANTIA® and URANTIAN® marks valid and enforceable. Maaherra is a recent decision of a federal court of appeals, and therefore "strongly persuasive" on the copyright validity issue. Williams v. Hughes Tool Co., 186 F.2d 278, 281 (10th Cir. 1950) (citing cases).² Adherence to the holding of Maaherra insures that the law "will develop in a principled and intelligible fashion." Vasquez v. Hillery, 474 U.S. 254, 265-66 (1986).

II. Statement of Undisputed Facts In Support of Motion

1. *The Urantia Book* consists of "Titles of the Papers" and "Table of Contents" sections, a Foreword, and 196 numbered "Papers" (the "Urantia Papers"), consisting of 2097 pages. The contents of the book are by a number of authors. Nothing is known about the authors of the Foreword and Papers 1-196 except what is written in the book. Williams Dec., Ex. A (*The Urantia Book*, pages vii-lxvi); McMullan Dep., pp. 13-16, and Exs. 1-2; Baney Dec., Ex. V.

² Numerous cases hold that the decision of another federal court of appeals is entitled to substantial weight as "highly persuasive." E.g., Back v. Carter, 933 F. Supp. 738, 752 (N.D. Ind. 1996); Onyeausi v. Pan Am World Airways, Inc., 767 F. Supp. 654, 655 n.1 (E.D. Pa. 1990); Plax Corp. v. Flexcel Container Co., 154 F. Supp. 704, 715 (W.D. Mo. 1957).

2. *The Urantia Book* has four parts; Part IV of the book (“The Life and Teachings of Jesus”) comprises Papers 120-196, pages 1323-2097. Williams Dec., Ex. A.

3. *The Urantia Book* is “a unique repository of information on a multitude of subjects from the structure of atoms to the structure of the universes. . . .” It is an encyclopedia of information about the universe. *The Urantia Book* discusses numerous subjects, including anatomy, anthropology, astronomy, biology, chemistry, cosmology, criminology, economics, education, evolution, genetics, geology, government, history, philosophy, history of religion, philosophy of religion, medicine, physics, psychology, sociology, family, marriage, science, race, and engineering. Kantor Dep., p. 53-57, 98, Exs. 45-46, 48; McMullan Dep., p. 16-21, 23-24, and Ex. 3³; Keeler Dep., p. 115.

4. At least as early as 1924, William S. Sadler, M.D., claimed that he began communicating through an anonymous and unconscious subject (the “conduit”) with entities believed by the parties to be spiritual beings. Harries Dec., p.1 (¶2-3); Sprunger Dep., p.64, Ex. B (pp.2-3), pp. 65-66, Ex. D (pp.1-2), p. 67, Ex. G (p.2), Ex. J (p.2-3); Wharton Dec., Ex. A⁴, pp.1-5, 7, 14-16; Baney Dec., Ex. X (p.13-14); Complaint for Declaratory Judgment, filed May 12, 2000, ¶6.

5. A group of people known as the Contact Commission managed and supervised all human aspects of the Urantia Papers. Only the Contact Commission participated in the communications regarding the Papers with those believed to be spiritual beings. Sprunger Dep., p.67, Ex. G (p.2), pp. 71-72, Ex. J (p.1-3); Kantor Dep., pp. 109-110, Ex. 16 (p.12, 3d column); Harries Dec., p.1 (¶ 3); Wharton Dec., Ex. A, pp.9-10.

³ “McMullan Dep.” refers to the First McMullan Deposition, taken December 11-12, 2000.

⁴ All references to Wharton Dec., Ex. A are to the “History of the Urantia Movement” by Dr. William S. Sadler, attached as Exhibit A to the Declaration of Scott Wharton, filed as Exhibit A to the UF Counterclaims & Third Party Complaint, filed June 16, 2000.

6. The Contact Commission included William Sadler, M.D., Lena Sadler, M.D., William S. Sadler, Jr., Emma Christensen, Wilfred Kellogg, and Anna Kellogg. Sprunger Dep., pp.67, Ex. G (p.1), pp. 69-70; Kantor Dep., pp. 109-110, Ex. 16 (p.12, third column); M.L. Hales Dec., ¶4.

7. The Contact Commission and the Forum met at 533 Diversey Parkway, Chicago, Illinois, which was the office and residence of Drs. William and Lena Sadler. Sprunger Dep., p.64, Ex. B (p.2), pp. 65-66, Ex. D (p.2), Ex. E (p.4); Carlson Dep., 7-8, 18-19; Harries Dec., p.1 (¶2); M.L. Hales Dec., ¶3.

8. Dr. William Sadler was the acknowledged leader of the Contact Commission and the Forum. Sprunger Dep., p. 65-66, Ex. E (p.4), p.67, Ex. G (p.2); Kantor Dep., pp. 109-110, Ex. 16 (p. 12, third column); Harries Dec., p. 1 (¶2-3); M.L. Hales Dec., ¶3.

9. The Contact Commission supervised the Forum, a group of friends who met on Sundays at the Sadler residence. Dr. Sadler discussed Contact Commission activities at Forum meetings. Sprunger Dep., pp. 65-66, Ex. D (p.2), Ex. E (p.4), p.67, Ex. G (p.2), pp. 71-72, Ex. J (p.5); Carlson Depo., pp.7-17; Kantor Dep., pp. 109-110, Ex. 16 (p. 12, third column); Harries Dec., p. 1 (¶2-4); Wharton Dec., Ex. A, pp.7-8.

10. Forum members, including Contact Commissioners, formulated written questions about a variety of topics in response to the solicitation of questions by the Contact Commission. Sprunger Dep., pp. 65-66, Ex. D (p.2), p.67, Ex. G (p.2), p. 71-72, Ex. J (p.5-6), Kantor Dep., pp. 101-106, Ex. 6 (pp. 4-5,7), pp. 109-110, Ex. 16 (p.12, third column); Carlson Dep., pp. 7-17; Harries Dec., pp. 1-2 (¶¶2-7); M.L. Hales Dec., ¶2-3; Baney Dec., ¶28, Ex. X, ¶35, Ex. EE-FF; C. Kendall Dec., ¶4; Wharton Dec., Ex. A, pp.7-8, 10, 18.

11. At Forum meetings, the Contact Commission would read a paper aloud, discuss the material, solicit, formulate and gather questions. The Contact Commission privately organized,

selected and submitted some of the written questions at its discretion to those believed by the parties to be spiritual beings. The questions submitted would disappear, and the individual Urantia Papers manuscripts, including revised versions of earlier manuscripts, would appear in their place. Sprunger Dep., p. 67, Ex. G (p.2), pp. 71-72, Ex. J (p.6); Carlson Dep., pp. 7-17; Kantor Dep., pp. 101-106, Ex. 6 (pp. 4-5, 7), pp. 109-110, Ex. 16 (p. 12, third column); Harries Dec., pp. 1-2 (¶2-6); M.L. Hales Dec., ¶3; C. Kendall Dec., ¶2-5, 8, Ex. A; Baney Dec., ¶28, Ex. X, ¶35, Ex. EE-FF; Wharton Dec., Ex. A, pp. 7-8, 10, 18.

12. After questions were initially presented by the Contact Commission, the manuscripts of the first Urantia Papers appeared. This pattern of questions, followed by the appearance of a Urantia Paper answering the questions, continued until 57 Papers were received by the Contact Commission. Sprunger Dep., pp.65-66, Ex. D (p.2), Ex. E (p.4), p.67, Ex. G (p.2), p.71-72, Ex. J (p.2-3); Harries Dec., p. 1 (¶2-5); M.L. Hales Dec., ¶2-3; C. Kendall Dec., ¶4; Wharton Dec., Ex. A, pp.5, 8, 18.

13. The procedure of asking questions and receiving written answers was followed for over fifteen years until the creation of the final versions of each of the Foreword and Papers 1 through 196 of *The Urantia Book*. Sprunger Dep., pp. 65-66, Ex. D (p.3), p.67, Ex. G (p.3), pp. 71-72, Ex. J (p.6); Harries Dec., pp.1-2 (¶2-6); Kantor Dep., pp. 101-106, Ex. 6 (p.4-5, 7), pp. 109-110 (Ex. 16); C. Kendall Dec., ¶2-5, 8, Ex. A; Baney Dec., ¶28, Ex. X, ¶35, Ex. EE-FF, Wharton Dec., Ex. A, pp. 5, 7-11.

14. The Contact Commission typed each of the versions of each of the Urantia Paper manuscripts when they were received and was responsible for comparing its typed Papers to the corresponding manuscripts. Sprunger Dep., p. 67, Ex. G (p.2), pp. 71-72, Ex. J (p.3); Carlson

Dep., p. 12, 18-19; Harries Dec., p. 1 (¶3); C. Kendall Dec., ¶6; Baney Dec., ¶35, Ex. EE-FF; Wharton Dec., Ex. A, p.9.

15. The Contact Commission contributed time, money, and effort toward publication of the Urantia Papers. Wharton Dec., Ex. A, p.22; Baney Dec., Ex. X, p. 19.

16. After 1924, the Contact Commission allowed Forum members to read the Papers at 533 Diversey, but not off the premises. Carlson Dep., pp. 18-19; C. Kendall Dec., ¶6.

17. In 1932, the Contact Commission corresponded with the U.S. Copyright Office about obtaining statutory copyright in the Urantia Papers. Baney Dec., ¶29, Ex. Y.

18. In 1941, Contact Commissioner Wilfred Kellogg contracted with R.R. Donnelly Publishing to manufacture the plates for printing the Urantia Papers. Baney Dec., ¶2, Ex. A.

19. Three members of the Contact Commission became original trustees of UF (Sadler, Jr., W. Kellogg and Christensen). Sprunger Dep., pp. 69-70, Ex. I.

20. Edith Cook and William Hales, members of the Forum, were the other original trustees of UF. Hales Dec., ¶3; Baney Dec., ¶32, Ex. BB.

21. Contact commissioner Lena Sadler, M.D., died in 1939. Kagan Dep., p. 56

22. 533 Diversey Parkway, Chicago, Illinois, formerly the home of Drs. William and Lena Sadler, is the current headquarters of UF. M.L. Hales Dec., ¶3; Baney Dec., ¶3.

23. Upon UF's formation as a public charitable trust under Illinois law, the Contact Commission ceased to exist as a formal decision-making or custodial body with rights and responsibilities for the Urantia Papers. UF immediately assumed all rights in the Urantia Papers. Baney Dec., ¶4, Ex. B (Opening recital, Art. I, ¶1.2, Art. III, ¶3.1 and 3.3, Art. IV., ¶6.15), ¶9, Ex. H (pp.1-2), ¶31, Ex. AA; M.L. Hales Dec., ¶5; Harries Dec., p.2 (¶8); C. Kendall Dec., ¶7;

Sprunger Dep., p. 65, Ex. D (p.3), p. 71-72, Ex. J (p.9); Kantor Dep., pp. 101-106, Ex. 6 (pp. 8-9), Ex. 24.

24. Forum members knew UF was to assume rights and control over the eventual publication of *The Urantia Book*, and no one objected to UF's assumption of rights and control. No one other than UF has ever asserted rights, including copyright, in *The Urantia Book*. M.L. Hales Dec., ¶5; Harries Dec., p.2 (¶8); Schilb Dec., ¶3; C. Kendall Dec., ¶7; Kantor Dep., pp. 117-19, Ex. 24; Baney Dec., ¶4, Ex. B (Opening recital, Art. I, ¶1.2, Art. III, ¶3.1 and 3.3, Art. IV., ¶6.15), ¶9, Ex. H (p.2).

25. Mr. Kellogg assigned ownership of the Donnelly printing plates to UF upon its formation. Baney Dec., ¶5, Exs. B and C.

26. UF then raised the remaining funds necessary to publish *The Urantia Book*. Sprunger Dep., pp.71-72, Ex. J (p.9); Baney Dec., ¶30, Ex. Z.

27. William S. Sadler, Jr. authored the "Titles of the Papers" and "Contents of the Book," which appear at the beginning of *The Urantia Book*. Baney Dec., ¶6.

28. On October 12, 1955, Urantia Foundation published *The Urantia Book* under notice of copyright. UF Counterclaims & Third Party Complaint, filed June 16, 2000, Ex. B; Sprunger Dep., p.65, Ex. D (p.3), pp. 71-72, Ex. J (p.9); Harries Dec., p.2 (¶8).

29. UF formally registered the original copyright in *The Urantia Book* by submitting its application along with 2 copies of the book to the U.S. Copyright Office. UF Counterclaims & Third Party Complaint, filed June 16, 2000, Ex. B; Baney Dec., ¶7.

30. There are at least 49 copyrighted works in the Library of Congress that claim to be revelations authored by spiritual beings. Kirk Dec. (copyright), ¶¶2-3, Exs. A-WW.

31. Dr. William S. Sadler and William Sadler, Jr. acknowledged in writing UF's ownership of copyright in *The Urantia Book*. Baney Dec., ¶8, Exs. D-G; Kantor Dep., pp. 101-106, Ex. 6 (p.8); Baney Dec., ¶9, Ex. H.
32. UF owns federally registered and incontestable trademarks for URANTIA® and URANTIAN®. There are four incontestable registrations for URANTIA® and one for URANTIAN®. Williams Dec., ¶2; UF Counterclaim and Third Party Complaint, filed June 16, 2000, Exs. E-F; T. Kendall Dec., ¶2, and Exs. 5-9 from McMullan Depo (prosecution file wrappers for each of the marks).
33. UF did not attempt to mislead the United States Patent and Trademark Office ("USPTO") in the registration of the words "Urantia" and "Urantian" as trademarks. T. Kendall Dec., ¶2-8.
34. From at least 1973 until today, UF used "Urantia" and "Urantian" in interstate commerce on its publications. Baney Dec., ¶10, Exs. I-J; T. Kendall Dec., ¶8.
35. On books, UF has used and continues to use the word "Urantia" in interstate commerce. T. Kendall Dec., ¶4-5; Williams Dec., ¶3, Ex. A.
36. In 1970, when UF applied to register the word "Urantia" as a trademark for "books," no other party published *The Urantia Book*. Baney Dec., ¶12.
37. UF did not conceal the religious nature of some of the text of *The Urantia Book*, or of services offered by UF, while registering the words "Urantia" and "Urantian." T. Kendall Dec., ¶¶ 7, and Exs. 5-9 to McMullan Dep.
38. Neither "Urantia" nor "Urantian" is the name of a religion recognized by the general public, nor is UF a church. Kirk Dec. (trademark), ¶¶ 43-51, Exs. OO-VV; T. Kendall Dec., ¶6; Baney Dec., ¶13-14; Nelems Dec., ¶14; Thursby Dec., ¶¶1-6.

39. Neither “Urantia” nor “Urantian” was the name of a religion, whether recognized or unrecognized by the public, at the time UF sought to register the trademarks at issue in this case.

T. Kendall Dec., ¶6.

40. None of UF’s trademarks for the words “Urantia” and “Urantian” are registered for the name of a religion as opposed to goods or services. Exs. 5-9 of McMullan Dep.; T. Kendall Dec., ¶7; Williams Dec., ¶2.

41. Numerous names of religions (e.g., Scientology, Lutheran, Christian Science, Christian) are federally registered marks for goods and services. Numerous terms of obvious religious import (e.g., Jew, God, Baptist Online, Jewish.com) are registered marks for goods and services. Kirk Dec. (trademark), ¶¶18-42, Exs. P-NN.

42. Although the opposing parties claim “Urantia,” as a synonym for “Planet Earth,” makes it a term of geographic origin incapable of registration, numerous federally registered trademarks (e.g., “Planet Earth,” “Mars,” “Earthling”) are terrestrial or celestial in that they are either the name of or highly descriptive of our planet or other commonly known planets. Kirk Dec. (trademark), ¶¶2-17, Exs. A-O.

43. UF has printed and distributed over 500,000 copies of *The Urantia Book*. Sprunger Dep., pp. 65-66, Ex. E (p.1); Baney Dec., ¶15.

44. The relevant public for sales of *The Urantia Book* and *Jesus - a New Revelation* includes persons presently unfamiliar with *The Urantia Book* (the public at large). McMullan Dep., pp. 11-12, 131-132, Ex. 17; Kantor Dep., pp. 40-42; Baney Dec., ¶15; Rushing Dec., ¶5.

45. Prior to its deposition on December 11, 2000, MF had never reviewed the trademark prosecution file histories for any of the marks that it alleges were procured by fraud in this case. McMullan Dep., pp.157-158, Exs. 5-9.

46. Thomas Kendall, a trustee of UF at the time, signed the declarations of UF under oath in support of each of the marks at issue in the fraud claim. McMullan Dep., Exs. 5-9.

47. Mr. Kendall did not intend to defraud the USPTO when he executed the declarations in connection with the registrations of any of the marks at issue. McMullan Dep., pp. 169-170; T. Kendall Dec., ¶¶2-8.

48. Urantia Brotherhood used “Urantia” and “Urantian” as source identifiers (i.e., trademarks/service marks/collective membership marks) pursuant to permission granted to it by UF. Kantor Dep., pp. 133-34, Exs. 52-53, Ex. 63 (p.1), 73, pp.146-147, Ex. 76 (pp. 1-2); Sprunger Dep., p. 34; Baney Dec., ¶16, Ex. M-N.

49. In 1975, McMullan wrote UF that he supported enforcement of the copyright in The Urantia Book. Baney Dec., ¶20, Ex. Q.

50. At least as early as 1982, McMullan, a subscriber/reader of *The Study Group Herald*, was aware of the role that questions played in the origin of *The Urantia Book*. Compare Second McMullan Dep., p. 56 (regular subscriber/reader) with Kantor Dep., Ex. 16 (p.12, third column) (*Study Group Herald* article discussing role of questions).

51. UF renewed its copyright in *The Urantia Book* in 1983. UF Counterclaims and Third Party Complaint, filed June 16, 2000, Ex. C.

52. In 1987, McMullan requested and received a non-exclusive copyright permission from UF to publish *21 Steps to Spiritual Awakening* (which quotes from *The Urantia Book*). MF is presently publishing this work. Baney Dec., ¶19, Ex. P; Second McMullan Dep., pp. 87, 89, 228-29, Exs. 8 and 30.

53. To induce UF to publish his *Key Word Index* at its own expense, McMullan entered into a written agreement assigning his index to UF wherein he acknowledged the validity of UF’s

copyright. Second McMullan Dep., pp. 188-197, Exs. 17-19 (showing publication expenses incurred by UF); Baney Dec., Ex. R-1 and R-2. MF was established in 1995. McMullan Dep., pp. 80-81.

54. McMullan formed MF in 1995 and was the motivating factor behind its actions at issue in this case. McMullan Dep., pp. 80-83, 224, Ex. 23.

55. McMullan read the appellate brief of UF in Urantia Foundation v. Maaherra “as soon as it became available,” in January of 1996 or earlier. McMullan Depo., pp. 66-70, and Ex. 4 (copy of excerpts from the brief).

56. The appellate brief of UF in Maaherra describes the facts and evidence concerning the origin of *The Urantia Book*, including the role of the human-asked questions. McMullan Dep., Ex. 4 (“Statement of Case – Facts,” pp. 2-5).

57. McMullan was present in the Ninth Circuit for the oral argument of the Maaherra appeal. McMullan Dep., pp. 65-66.

58. The U.S. Court of Appeals for the Ninth Circuit opinion in Maaherra was published in June 1997. McMullan read the Ninth Circuit opinion in Maaherra “as soon as it came out.” Baney Dec., ¶17; McMullan Dep., pp. 65-66.

59. MF decided to publish *Jesus - a New Revelation* only after the Ninth Circuit decided Maaherra. McMullan Dep., p.93.

60. In 1997, before the publication of *Jesus - a New Revelation*, McMullan indicated that he would take legal action against UF over the validity of the copyright in *The Urantia Book*. McMullan Dep., pp. 233-34, Ex. 24; Baney Dec., ¶¶22-24, Ex. S-U.

61. Before MF published *Jesus - a New Revelation*, two UF trustees communicated with McMullan in an attempt to dissuade MF from publishing the work. McMullan Dep., pp. 101-102, and Ex. 10.

62. MF sold *Jesus - a New Revelation* to the public at large. McMullan Dep., Ex.15, 17.

63. *Jesus - a New Revelation* is a word for word copy of the structure, arrangement and text of Papers 121-196 of *The Urantia Book*. Second McMullan Dep., p. 99.

64. McMullan (directly and indirectly through Asoka Foundation, a non-profit organization controlled by McMullan) personally contributed over \$73,000 to Maaherra's legal challenge to the same copyright and trademarks of UF at issue in this case. Second McMullan Dep., p. 114.

III. The Copyright in *The Urantia Book* Is Valid.

A copyright inheres in original works of authorship. 17 U.S.C. § 102(a). A "literary work," such as a book, is an example of a copyrightable work. 17 U.S.C § 102(a)(1). Because human creativity is the *sine qua non* of copyrightability, the work in question must not be so "mechanical or routine as to require no creativity whatsoever" to warrant copyright protection. Feist Pub. v. Rural Tel. Serv. Co., 499 U.S. 340, 362 (1991). Under the 1909 Copyright Act, 17 U.S.C. § 1, *et seq.* (which governs works copyrighted before 1978), "an unpublished work was protected by common law copyright from the moment it was created, until it was either published with proper notice, or otherwise received protection under federal copyright law." Maaherra, 114 F.3d at 960. The proprietor of an unpublished work was entitled to register a statutory copyright in the work. Houghton Mifflin Co. v. Stackpole Sons, Inc., 104 F.2d 306, 311 (2d Cir.), cert. denied, 308 U.S. 579 (1939), and 113 F.2d 627 (2d Cir. 1940). Such a proprietor, who is in possession of an unpublished work and proceeds to register a claim of copyright in connection with publication of the work, need not show any assignment from any

author, especially in a case where, as here, the opposing party does not assert a superior copyright interest. Belford, Clark & Co. v. Scribner, 144 U.S. 488, 504 (1892); Maaherra, 114 F.3d at 960.

A proprietor who registered the original copyright in the work is entitled to renew the statutory copyright so long as the work in question is one of the following: (a) a posthumous work; (b) a composite work (defined as a work where two or more authors contribute separate parts), a cyclopedic work (i.e., an encyclopedia or dictionary) or periodical; (c) a work copyrighted by a corporate body (otherwise than as assignee or licensee); or (d) a work made for hire. 17 U.S.C. § 304(a).

With regard to the copyright in *The Urantia Book*, Maaherra held that the Contact Commission, by writing, selecting and submitting questions, supplied the minimal creative spark needed to support the copyrightability of the Urantia Papers and *The Urantia Book*. 114 F.2d at 958-959. The Declaration of Trust creating Urantia Foundation (Baney Dec., Ex. B), which requires the trustees of UF to “retain absolute and unconditional control of . . . the printing and reproduction of *The Urantia Book* and any translation thereof,” shows that UF succeeded to the common law copyright in *The Urantia Book*. Maaherra, 114 F.3d at 960. The mere possession by UF of printing plates containing the unpublished text of *The Urantia Book* barred Maaherra (who claimed no superior copyright interest) from challenging UF’s title to copyright in the book. Id. Finally, Maaherra concluded “that the Foundation has established that it was, at the time of the renewal, the proprietor of a composite work[.]” meaning that its 1983 renewal of copyright was valid even *if* the book was not a work made for hire as claimed on the renewal

application.⁵ 114 F.3d at 957. Maaherra rejected the proposition that an inaccurate statement of renewal theory barred an otherwise lawful renewal. Id. at 961.

Before the ink on the Maaherra decision was dry, McMullan announced his intention to challenge the copyright. Facts, 61. Plaintiff MF and McMullan, who created MF, decided to publish and distribute *Jesus - a New Revelation* (“JANR”), a word-for-word copy of the structure, arrangement and text of the last 400,000 words (i.e., the last 76 of the 196 “papers”) of *The Urantia Book*. MF then brought this action seeking to invalidate the copyright in *The Urantia Book*. McMullan asserted invalidity of copyright as an affirmative defense. MF claims that (a) Urantia Foundation (“UF”) did not establish a valid chain of title to copyright in the book; (b) *The Urantia Book* is not a “work for hire,” as claimed in the copyright renewal, and that the term has expired to renew the copyright as a composite work; (c) *The Urantia Book* is not copyrightable, because it is a divine revelation; and (d) UF is estopped from claiming copyright because it believes and claims *The Urantia Book* is a revelation. Complaint for Declaratory Judgment, filed May 12, 2000, ¶13.⁶ McMullan has argued identically. McMullan Answer, filed Aug. 2, 2000 (Aff. Defenses 3-4, 6-7). Only the estoppel claim was not forcefully dealt with by Maaherra. Because McMullan contractually admitted the validity of the copyright, and accepted copyright licenses for past and present works, he cannot be heard to challenge the copyright by estoppel or otherwise. Therefore, UF is entitled to judgment as a matter of law that the copyright in *The Urantia Book* is valid and enforceable.⁷

⁵ UF believes the fact-finder could conclude *The Urantia Book* is a work for hire, but it is not necessary to raise the issue for purposes of its motion.

⁶ In its Reply to Counterclaims, filed Aug. 2, 2000, MF also raised the defense of judicial estoppel. However, no such defense is recognized by the Tenth Circuit. United States v. 162 MegaMania Gambling Devices, 231 F.3d 713, 726 (10th Cir. 2000).

⁷ Summary judgment is appropriate where no genuine issue as to any material fact exists and the moving party is entitled to judgment as a matter of law. Celotex Corp. v. Catrett, 477 U.S. 317 (1986); Badco Music, Inc. v. WMM, Inc., 1992 WL 407299, *1 (W.D. Okla. 1992).

A. UF Has a Valid Claim of Copyright in *The Urantia Book*.

UF has owned a copyright registration in *The Urantia Book* since 1955. Facts, ¶¶29-30. Such a certificate constitutes “a presumption of [copyright] validity.” Academy of Motion Picture Arts & Sciences v. Creative House Promotions, Inc., 944 F.2d 1446, 1451 (9th Cir. 1991). A copyright certificate is evidence that the copyright “certificate holder has met all of the requirements for copyright validity.” Id. These requirements include: originality, compliance with formalities, and proprietorship of copyright. E.g., Regents of Univ. of Minnesota v. Applied Innovations, Inc., 685 F. Supp. 698, 707 (D. Minn. 1987), aff’d, 876 F.2d 626 (8th Cir. 1989).

The copyright certificate holder is the proprietor of the copyright. A registration certificate alone is prima facie evidence of copyright ownership. Medias & Co. v. TY, Inc., 106 F. Supp. 2d 1132, 1136 (D. Colo. 2000); Syigma Photo News, Inc. v. High Society Magazine, Inc., 778 F.2d 89, 92 (9th Cir. 1985) (“[t]he presumption of validity and of compliance with all formalities applies to [one] . . . who [first registers] a claim of copyright”).⁸

The copyright registration certificate is by no means the only evidence of proprietorship. The Contact Commission possessed the Urantia Papers, which were later converted to plates – plates that UF assumed from the Contact Commission via the Declaration of Trust in 1950. Facts, ¶¶7, 11-14, 16, 18, 23. Moreover, UF owned the plates bearing the unpublished text of *The Urantia Book* prior to its publication. Facts, ¶¶18,23, 25. This ownership of the plates and Papers is further evidence of a valid claim to proprietorship of common law copyright prior to registration. Five years later, in 1955, UF published *The Urantia Book* under notice of

⁸ Under the 1909 Copyright Act, which is applicable in this case, a written transfer of a common law copyright interest to the original statutory registrant was not required. Self-Realization Fellowship Church v. Ananda Church of Self-Realization, 206 F.3d 1322, 1325 (9th Cir. 2000).

copyright. Facts, ¶28. In the forty-five years since, no one else has ever claimed copyright in *The Urantia Book*. Facts, ¶24.

Although MF does not claim any interest in *The Urantia Book* as author or proprietor, it is instructive to note that even where the author of a work claims that the proprietor does not own the copyright, it is well-settled in law that possession of an unpublished work, followed by publication and registration of the statutory copyright in the work, is “ample evidence of good title” to the claim of copyright. Houghton Mifflin Co., 104 F.2d at 311. Where the opposing parties do not have competing claims to the copyright, they cannot attack the registrant’s claim of copyright proprietorship. Belford, Clark & Co., 144 U.S. at 504; Intimo, Inc. v. Briefly Stated, Inc., 948 F. Supp. 315, 318 (S.D.N.Y. 1996) (“unusual and unwarranted” to permit challenge where challenger claims no title to copyright). Therefore, UF’s possession (without objection) of the work at the time of publication is sufficient evidence of copyright ownership, particularly because McMullan and MF do not assert a competing claim. Gerlach-Barklow v. Morris & Bendien, 23 F.2d 159, 161 (2d Cir. 1927).⁹

In sum, in addition to the copyright registration certificate, which is prima facie evidence of copyright ownership, UF’s assumption of rights in *The Urantia Book* in 1950, Facts, ¶23, 25, its publication of *The Urantia Book*, Facts, ¶28, without any objection to UF’s actions in doing so, Facts, ¶24, show that UF is the lawful proprietor of the copyright. Maaherra, 114 F.3d at 960; Houghton Mifflin, supra 104 F.2d at 311; Van Cleef and Arpels, Inc. v. Schecter, 308 F. Supp. 674, 677 (S.D.N.Y. 1969) (copyright ownership inferred from conduct). Appreciating UF’s strong position on the copyright ownership issue, the opposing parties claim that the renewal copyright is not valid because *The Urantia Book* is supposedly not a work for hire, as

⁹ Accord Ripley v. Findlay Galleries, 155 F.2d 955 (7th Cir.), cert. denied, 329 U.S. 775 (1946); Freudenthal v. Hebrew Pub. Co., 44 F. Supp. 754 (S.D.N.Y. 1942).

claimed by UF on the copyright renewal application. Facts, ¶51. As shown below, such an argument emphasizes form, but ignores substance.

B. Whether *The Urantia Book* Is a Work for Hire Is Inconsequential.

Neither MF nor McMullan have contended in pleadings that UF lacks a valid renewal theory. Although MF asserts in the complaint, ¶13, that claiming “work for hire” status on the renewal application binds UF *exclusively* to that renewal theory, courts reject such an insistence on formality. Maaherra, 114 F.3d at 962-63 (citing cases). Thus, it is not necessary to even argue over whether *The Urantia Book* is a work for hire.

The Copyright Act, 17 U.S.C. § 304(a), states that the proprietor of the original statutory copyright is entitled to renew the copyright if the copyrighted work is a work for hire, or a composite work. A composite work is a work to which a number of authors have contributed separate parts, which the authors have not separately registered. Abend v. MCA, Inc., 863 F.2d 1465, 1470-71 (9th Cir.), aff’d, Stewart v. Abend, 495 U.S. 207 (1990).¹⁰

One of the Contact Commissioners described the book to the Library of Congress as a composite work in 1955. Facts, ¶1 (Baney Dec., Ex. V).¹¹ This evidence, combined with the book itself, shows composite authorship. Id. Moreover, there is no dispute that UF is the proprietor that originally registered the copyright and renewal in *The Urantia Book*. Facts, ¶¶30, 52. UF was thus the proprietor of a composite work when it renewed its copyright in *The Urantia Book*. Facts, ¶¶1, 3; Maaherra, 114 F.3d at 957 (UF “has established that it was, at the time of renewal, the proprietor of a composite work”).

¹⁰ Nothing in the 1909 or 1976 Copyright Acts requires a proprietor of copyright in a composite work to show how it obtained the original rights in the component parts of the work in order to renew the copyright. There is no need to prove assignments from or contracts with the individual authors of the component parts. Maaherra, 114 F.3d at 961.

C. The Urantia Book Is Copyrightable.

The opposing parties next assert that *The Urantia Book* is not copyrightable. The book is, however, an “original work of authorship” within the meaning of 17 U.S.C. 102. “To qualify for copyright protection, a work must be original to the author.” Feist, 499 U.S. at 345 (citation omitted). “Original . . . means only that the work was independently created by the author (as opposed to copied from other works), and that it possesses at least some minimal degree of creativity.” Id. (emphasis added) (citation omitted). The creativity in this case, Facts, ¶¶7, 10-14, easily surpasses the “de minimis thought” requirement of the Copyright Act. Key Pub. v. Chinatown Pub., 945 F.2d 509, 514 (2d Cir. 1991).

In Maaherra, the Ninth Circuit Court of Appeals opined that at least “some element of human creativity must have occurred in order for the Book to be copyrightable.” 114 F.3d at 958 (emphasis added). The book, including but not limited to each of its Papers, is an original literary work, capable of supporting copyright, and it is not a copy of any other work. Maaherra, 895 F. Supp. 1337, 1338 (D. Ariz. 1995) (*The Urantia Book* is a copyrightable work of authorship).¹² The solicitation, formulation, selection and submission of questions by the Contact Commission contributed the spark of human creativity; the Ninth Circuit opined:

¹¹ Neither MF nor McMullan have asserted in their pleadings that *The Urantia Book* is not a composite work.

¹² Maaherra, 114 F.3d at 959, affirmed that “[t]he *Papers* [within the book] thus did not belong to that ‘narrow category of works in which the creative spark is utterly lacking or so trivial as to be virtually nonexistent.’ Feist, 499 U.S. at 359, 111 S.Ct. at 1294 (citation omitted). Therefore, the *Papers* [within *The Urantia Book*] were works amenable to common law copyright protection, and the district court correctly so held.”

[T]he members of the Contact Commission chose and formulated the specific questions asked. These questions materially contributed to the structure of the Papers, to the arrangement of the revelations in each Paper, and to the organization and order in which the Papers followed one another. We hold that the human selection and arrangement of the revelations in this case could not have been so "mechanical or routine as to require no creativity whatsoever." Feist, 499 U.S. at 362, 111 S.Ct. at 1296.

Maaherra, 114 F.3d at 959 (emphasis added).¹³

D. The Waiver and Estoppel Claims Confirm Copyright Validity.

The opposing parties argue next that even if copyright is valid, UF's past "factual representations" to the effect that UF believes *The Urantia Book* is a revelation estops UF from claiming that there is human creativity associated with the book.¹⁴ The claim to any equitable defenses to infringement on these facts is, at best, specious.

First, these so-called "factual representations" of revelation are not the kind of representations that will support a claim of estoppel. Sterling v. Garman, U.S. Dist.Lexis 21932, *7 (N.D. Cal. Nov. 4, 1992) (declining to apply copyright estoppel to claims of spiritual authorship). Such representations are of belief, not verifiable statements of fact. Penguin Books, U.S.A., Inc. v. New Christian Church of Full Endeavor, Ltd., 2000 WL 1028634, *12 (S.D.N.Y. July 25, 2000) (claim that "Jesus" is author did not give rise to estoppel).

Second, the opposing parties are not entitled to assert equitable defenses relating to copyright enforceability because they decided to challenge what they knew to be the copyright in *The Urantia Book* before ever publishing JANR. Facts, ¶¶60-61. The intentional effort to

¹³ The questions in this case are analogous to the creative contributions of storyboards in filmmaking or playwriting. See Lindsay v. The Wrecked and Abandoned Vessel RMS Titanic, 1999 WL 816163, *5 (S.D.N.Y. 1999).

¹⁴ If the belief that *The Urantia Book* is a revelation disqualifies the work from copyright protection, then the copyrights in at least 49 other works that are claimed to be revelations are in jeopardy. Facts, ¶30.

challenge the copyright again eliminates their right to mount equitable defenses. Nihon Keizai Shinbun, Inc. v. Comline Business Data, Inc., 166 F.3d 65, 75 (2d Cir. 1999).

Third, before they published JANR, the opposing parties were aware of the facts giving rise to the origin of *The Urantia Book* and attendant claim of copyright because McMullan read: 1) the *Study Group Herald*, Facts, ¶50; 2) the contents of Urantia Foundation's brief in Maaherra; and 3) the published opinion of the Ninth Circuit in Maaherra. Facts, ¶¶55-56, 58. McMullan even attended the oral arguments in the Maaherra case. Facts, ¶57. Awareness of the facts or contentions of the opposing party precludes justifiable reliance on contradictory matters. Little Joplin Thomas Trust v. Crown Pub., Inc., 456 F. Supp. 531, 535 (S.D.N.Y. 1977), aff'd 592 F.2d 651 (2d Cir. 1978) (must show ignorance of true facts and detrimental reliance). In other words, regardless of statements made by UF prior to the arguments in Maaherra, McMullan and MF were fully on notice of the relevant facts before publishing JANR. See also Facts, 60-61 (they were aware of likelihood of litigation).

Moreover, at least two trustees of UF urged the opposing parties not to publish a separate Part IV of *The Urantia Book* in advance of the publication of the copies of JANR that gave rise to the infringement allegations in this suit. Facts, ¶61. Again, this bars any claim of justifiable reliance by MF or McMullan. Merchant v. Lymon, 828 F. Supp. 1048, 1064 (S.D.N.Y.), rev'd o.g. 92 F.3d 51 (2d Cir. 1996) (defendant must prove reasonable and justifiable belief it had permission to copy); Broadcast Music v. Hearst/ABC Viacom Ent. Serv., 746 F. Supp. 320, 329 (S.D.N.Y. 1990) (plaintiff must be "responsible for" the defendant's infringement).

In fact, the opposing parties are the ones acting in a manner that should give rise to estoppel and waiver. The facts show McMullan licensed the copyright at issue so he could quote from *The Urantia Book* extensively in the work *21 Steps to a Spiritual Awakening* and has

granted MF permission to publish this work. Facts, ¶52. In the Tenth Circuit, licensees and former licensees are estopped from challenging the validity of the underlying copyright or trademark. See Creative Gifts, Inc. v. UFO, 2000 WL 1843238, *8 (10th Cir. Dec. 15, 2000) (applying “licensee estoppel” doctrine against a former licensee).

Moreover, the *multiple* acknowledgments of the validity of the copyright by McMullan, Facts, ¶¶49, 52-53, most of which were given in order to induce certain action from UF, constituted a knowing and voluntary relinquishment of their rights to challenge the validity of the copyright. See State ex. rel. Haynes v. Sixteen Thousand Eight Hundred Dollars, 990 P.2d 334, 337 (Ok. Civ. App. Div. 1 1999) (defining waiver).

For instance, the parties entered into an assignment agreement relating to McMullan’s *Key Word Index*. Facts, ¶53. The Agreement indicates McMullan’s acceptance that “Urantia Foundation owns all right, title and interest in and to the copyright in . . . *The Urantia Book*.” Baney Dec., Ex. R-2 (p.1). “One who accepts the benefits of a contract must assume the detriments.” Local Fed. Sav. & Loan Ass’n v. Burkhalter, 735 P.2d 1202, 1205 (Okla. App. 1987). On these facts, McMullan and MF may not contravene the validity of UF’s copyright claim, nor assert that equity bars a claim of infringement against them.¹⁵

IV. URANTIA® and URANTIAN® Are Valid and Enforceable.

The URANTIA® and URANTIAN® marks (the “Marks”) at issue in this case are each “incontestable.” Facts, ¶32. The validity of an incontestable trademark can only be attacked on a very few statutory grounds. Sovereign Order of St. John v. Grady, 119 F.3d 1236, 1240-41 (6th Cir. 1997). MF attacks the Marks by arguing they are 1) “generic” in that they denote

¹⁵ Although perhaps disputed, UF contends McMullan also received a license for *When Things Go Wrong*, another work published by MF. Baney Dec., Ex. P, GG and HH.

religion and planetary residence, and 2) fraudulently obtained.¹⁶ Accordingly, MF bears the burden of proof. (Although McMullan has not plead invalidity of trademarks as a defense, UF seeks summary judgment against him as well on this issue.) Summary judgment is appropriate because there is no genuinely disputed issue of material fact on either of these theories warranting a trial on the validity of the Marks.

A. The Marks Are Not Generic.

A trademark becomes generic when the mark is no longer capable of identifying the owner of the mark as the source of the goods or services on which it is used because it has become synonymous in the minds of the relevant public with the genus of goods or services on which it is used. Creative Gifts, at *4 (e.g., “cellophane” becoming the common term for “plastic wrap”). In this case, in the minds of the relevant public, the Marks have not become commonly understood as *any* class of goods or services. The “relevant public” for genericism purposes is the market of “actual or potential purchasers” in the United States. Creative Gifts, at *4, Maaherra, 895 F. Supp. at 1343. All book consumers are part of the relevant public, not just persons already familiar with The Urantia Book. Facts, 43-44.

Apparently recognizing the fact that the relevant public in this case is the entire market of consumers, McMullan and MF have turned their attention to arguing that “Urantia” is the “generic name of a religion,” a novel and suspect legal theory that has *never* been cited as the basis for canceling an incontestable mark.¹⁷ General Conf. Corp. v. Perez, 97 F. Supp. 2d 1154, 1162 (S.D. Fla. 2000) (“Whether [the Mark] is generic when used to refer to a religion, does *not* answer the question of whether it is generic when used [on goods] by [the Mark’s owner]”).

¹⁶ MF Counterclaims, filed Aug. 2, 2000, ¶¶7-8, 21-24.

¹⁷ “The copyright and trademark laws are such neutral laws of general applicability to which the defendant must adhere for the betterment of the public good, regardless of her religious

Even setting to the side the fact that this argument is not “genericism” within the meaning of the Lanham Act, Creative Gifts, at *4, the argument is too attenuated to succeed. Urantia Foundation is not and has never been a church (much less sponsor of an entire religion), Facts, ¶38, so to take its marks away because others claim that they have religious import sets a horrible precedent. While USPTO policy precludes registering the “name of a religion” per se, what these parties argue, if accepted, would stand trademark law on its head. Numerous marks that are either also the names of religions or that clearly denote religion serve as registered trademarks for something other than “religion” per se. Facts, ¶41. In this case, no one argues that Urantia Foundation improperly registered any mark for a “religion” as opposed to goods or services. To the contrary, the evidence is undisputed Urantia Foundation uses the Marks on publications, and URANTIA® to signify educational services and collective membership in an organization. Facts, ¶¶32, 34-35.¹⁸

Moreover, among the *extremely limited* group of persons already familiar with *The Urantia Book*, most (90%) do not associate the Marks with the name of a religion. Facts, ¶38 (Nelems Dec., ¶14). See Anheuser-Busch Inc. v. Stroh Brewing Co., 750 F.2d 631, 639 (8th Cir. 1984) (survey is “most practical” evidence). The relevant public does not understand the Marks to be terms of religious import. Facts, ¶38. Even those who *specialize* in religion do not recognize “Urantia” as a religion. Facts, ¶38 (Thursby Dec., ¶¶1-6). For these reasons, Urantia Foundation is entitled to judgment as a matter of law dismissing the claims of the other parties

convictions to the contrary.” Urantia Foundation v. Maaherra, 895 F. Supp. 1329, 1332 (D. Ariz. 1995).

¹⁸ Each of the prosecution file histories for the Marks (McMullan Dep. Exs. 5-9) contains specimens showing that Urantia Foundation was using the Marks at the time it applied for the registrations. Trademark rights are acquired through use. Laurel Capital Group, Inc. v. BT Fin. Corp., 45 F. Supp. 2d 469, 481 (W.D. Pa. 1999).

for trademark genericism with prejudice. Maaherra, 895 F. Supp. at 1343 (upholding URANTIA®).

B. The Marks Were Not Fraudulently Registered.

The opposing parties claim UF fraudulently registered the Marks. To prove that Urantia Foundation fraudulently obtained a federal trademark, McMullan and MF must plead and prove that: 1) UF made a false representation regarding a material fact; 2) UF knew or believed that the representation was false when made (*scienter*); 3) UF intended to induce action or forbearance in reliance on the misrepresentation; 4) there was reasonable reliance on the misrepresentation; and 5) that damages proximately resulted from such reliance. San Juan Products, Inc. v. San Juan Pools of Kansas, Inc., 849 F.2d 468, 473 (10th Cir. 1988). McMullan and MF must prove the USPTO would not have granted the registration absent the fraudulent statement. Id. at 473. Fraud must be proved by clear and convincing evidence. Beer Nuts, Inc. v. Clover Club Foods Co., 711 F.2d 934, 942 (10th Cir. 1983).

For *each* of the five “Urantia” and “Urantian” marks at issue, McMullan and MF must show *specific* evidence of a genuinely disputed issue of fact on *each* of the five elements of fraud set forth above. They have not met and cannot meet this burden of proof. Even a cursory review of their pleadings in this case shows that they have not plead fraud with the specificity required by F.R.C.P. 9(b). For each of the registrations in question, the statements made to the USPTO in prosecuting the registrations were accurate, Facts, ¶¶34-37, 39, 48, and UF certainly did not intend to defraud the USPTO. Facts, ¶¶33, 37, 39, 46-47.

A charge of fraud, when made, is a gravely serious matter. The opposing parties have not come close to meeting the “clear and convincing” evidentiary threshold on their claim of fraud as to even one of the Marks. Stanfield v. Osborne Indus., Inc., 52 F.3d 867, 874 (10th Cir. 1995),

cert. denied, 516 U.S. 920 (1995). In fact, as unbelievable as it is, McMullan and MF did not even *review* the prosecution histories for these marks before leveling these allegations against Urantia Foundation. Facts, ¶45.

C. The Marks Are Not Terms of Geographic Origin.

As a token final argument, McMullan and MF assert that “Urantia” and “Urantian” are terms of geographic origin because “Urantia” is referred to in *The Urantia Book* as another name for planet earth. The law holds that terrestrial names, such as the names of planets, are *not* terms of geographic origin within the meaning of the Lanham Act. World Carpets, Inc. v. Dick Littrell’s New World Carpets, 438 F.2d 482, 486-87 (5th Cir. 1971) (names of planets not terms of geographic origin). Moreover, numerous terrestrial or celestial names, including names of planets, are properly used as trademarks, and have been registered accordingly. Facts, ¶42.

V. Conclusion

For all the foregoing reasons, Urantia Foundation respectfully requests that the Court 1) enter judgment in its favor on the claims of Michael Foundation and McMullan regarding the validity and enforceability of the copyright and trademarks at issue, and 2) hold that (a) the copyright in *The Urantia Book* is valid; (b) the copyright in *The Urantia Book* is enforceable; and (c) the URANTIA® and URANTIAN® marks of Urantia Foundation are valid and enforceable.

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CERTIFICATE OF SERVICE

This is to certify that on the 1st day of March 2001 a true and correct copy of the above and foregoing document was served by hand delivery to:

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