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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CHERIE PHILLIPS, Plaintiff - Appellant, v. MIKE MURDOCK EVANGELISTIC ASSOCIATION; et al., Defendants - Appellees.	No. 08-16925 D.C. No. 1:07-CV-00423-HG-KSC MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
Helen Gillmor, Chief Judge, Presiding

Submitted July 14, 2009**

Before: SCHROEDER, THOMAS, and WARDLAW, Circuit Judges.

Cherie Phillips, author of the Wisdom Bible of God, appeals pro se from the district court's judgment in her trademark infringement action against Mike

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* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

ME/Research

Murdock, author of The Wisdom Bible. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Buono v. Norton*, 371 F.3d 543, 545 (9th Cir. 2004) (grant of summary judgment); *Cleghorn v. Blue Shield of Cal.*, 408 F.3d 1222, 1225 (9th Cir. 2005) (dismissal for failure to state a claim), and we affirm.

The district court properly granted summary judgment on Phillips's trademark infringement claim because the term "Wisdom Bible" is descriptive, and Phillips failed to raise a triable issue that the term has acquired secondary meaning. *See Surfvivor Media, Inc. v. Survivor Prods.*, 406 F.3d 625, 632 (9th Cir. 2005) ("Because [descriptive] marks merely describe a characteristic of the product, they do not receive any trademark protection unless they acquire sufficient 'secondary meaning' to create an association between the mark and the product.").

The district court properly dismissed Phillips's First and Fourteenth Amendment claims because defendants are not state actors. *See Cent. Hardware Co. v. NLRB*, 407 U.S. 539, 547 (1972) ("The First and Fourteenth Amendments are limitations on state action[.]").

The district court properly dismissed Phillips's claim that defendants violated her international human rights because she failed to present any legal or factual basis for her claim. *See* Fed. R. Civ. P. 12(b)(6).

Phillips's remaining contentions are unpersuasive.

AFFIRMED.