Shakespeare, of course, had *A Word* for filchers of trademarks and trade names: "Who steals my purse steals trash; 'tis something, nothing . . . But he that filches from me my good name, Robs of that which not enriches him, And makes me poor indeed." (Othello, Act III, Scene III)

But Pat Holloway had even more words when accused of a trade name violation — in a letter that has become an Underground Classic among select Dallas lawyers. After graduating from the University of Texas Law School (circa 1955), Pat spent several years practicing law first with Thompson & Knight, and then with his own firm; and eventually went into the oil and/or gas business with his friend, Bill Browning. They chose the name Humble Exploration Company, for their venture, and Pat's letter explains why:

"When Bill and I decided to go into the oil business, one evening over drinks after temporarily exhausting the subject of women, we agreed that while our many virtues and various attributes were undoubtedly sufficient to assure our success in the oil exploration business both of us could, in all honesty, be somewhat deficient in humility, and we decided that while this might be no handicap in the pursuit of women it could conceivably prove to be a detriment in the pursuit of hydrocarbons, particularly since neither of us had any prior experience in that field. We decided that it would be advisable not only to adopt an attitude of humility but also, as an added safeguard, to remind ourselves daily of the desirability of that particular attribute by reference thereto in our corporate name."

This name, *Humble Exploration*, eventually resulted in a threatening letter from Exxon Corporation (nee Humble Oil & Refining Company) — which expressed Grave Concern about the similarity of names and the likelihood of confusion — and demanded that Humble Exploration change its name because the public "has come to" identify Humble as the name used by Exxon's shell (sic) subsidiary. The demand resulted in Pat Holloway's classic letter of January 20, 1977, which first "patiently" explained that the name Humble Exploration had been chosen to avoid confusion, not to cause it:

"We were, of course, aware of the former existence of Humble Oil & Refining Company and that it had changed its name to Exxon. To avoid any possible confusion on anyone's part between our company and the former public identity of Humble Oil & Refining Company (which your company had then recently spent untold millions of dollars changing over to 'Exxon'), we did not include in our corporate name any reference to 'Oil' or 'Refining' or 'Gas' or 'Petroleum' or 'Hydrocarbons' or 'Energy' or any other such word as might conceivably lead to confusion between the two organizations.

"The principal reason we chose 'Exploration' was because it aptly described our principal proposed (and to date actual) activity. A subsidiary or affiliated reason was that it was most likely to eliminate any possible confusion between us and the former name of your domestic affiliate since (1) the word 'Exploration' has never (so far as I know) been included in the name of any of your vast menagerie of subsidiaries or affiliates, and (2) your company, in the years immediately preceding 1974, had not exactly been noted for its exploratory activities in the contiguous United States (where we intend to operate exclusively), except for your extensive domestic exploration efforts offshore."

Next, the possibility of any likelihood of confusion was denied: Humble Exploration was a "very privately owned company, with only three shareholders, and no salaried employees. Zero;" it did not sell any products or services or deal with the general public in any way; it did not do business with "any trade or industry suppliers who could confuse us with you." However, Pat did admit to one troubling instance of confusion:

"I must confess that I did receive a call last fall from an irate lady demanding to know (1) what the heck I had done with Kern Tips, (2) did I or did I not intend to broadcast the Southwestern Conference football games on the radio this season and (3)
if not, why the heck not. I tried to refer her to Exxon, but she would have none of it. She insisted that she had never heard of Exxon, and after a while I believed her. I tried patiently to explain to her about the change of your name, but she accused me of trying to put some big con on her. As I recall, her exact words were 'I think you are spoofing me, young man'. Considering this remark judiciously, in its entirety, and being 45 years old, I decided to accept it as a compliment to my youthful albeit non-existent guile rather than as an insult to my integrity. I had the definite impression that if I could have given her any kind of encouragement whatever about a possible forthcoming resumption of football broadcasts, she would have turned her radio up full blast, collapsed joyfully back into bed, privately continued her reminiscences about Sammy Baugh, Davey O'Brien, Ki Aldrich et al., and happily motored on forever."

Then Pat respectfully declined to change the name of Humble Exploration. "The public has 'gone from' Humble Oil & Refining Company to Exxon not 'come to' Humble Exploration." We have grown accustomed to our name, and . . . stated somewhat more strongly, we doubt we would be willing to make an 'even swap' of names with you even if you were to make such an offer."

"We simply have always preferred 'Humble' to 'Exxon' . . ."

"I trust you are not offended by our preference to our name over yours. Just because we think you made a mistake in changing your name does not necessarily make it so. And even if it was a mistake we think you are now big enough to survive even more than one little mistake like this. Overall, we admire you greatly. In fact, we believe you guys have reached the point now where you are probably going to make it in a big way."

"In all respects other than changing our name we remain,

Your humble and obedient friend."

And, the letter concludes with this postscript: "If any of the foregoing arouses your ire or offends your dignity to the extent that you decide to revoke my Exxon credit card, please at least reissue to me in lieu thereof my old Humble credit card so that I can purchase on credit some of the products and services that you presumably still market under the [Humble] trademark registrations . . . ."

As you might expect, Pat's letter did result in a lawsuit. Installment two in this humble saga can be found in Exxon Corp. v. Humble Exploration Co., 695 F.2d 96 (5th Cir. 1983)."

1. However, Shakespeare, not being a Paragon of Consistency, also said: "What's in a name? That which we call a rose, By any other name would smell as sweet." (Romeo and Juliet, Act II, Scene III).

2. During his deposition, Pat was asked to describe his educational background. His response: "My education was completed when I left Barnhart, TX, when I was 17 years old. But thereafter, I attended Yale University and the University of Texas Law School."

3. "Your letter of January 11, 1977 addressed to William W. Browning, as President of Humble Exploration Company, Inc., has come to me because my friend Bill died last September and, while we have spent considerable time since then worrying about where he went, at least one fact is certain: he left no forwarding address with the U.S. Post Office."

4. "Where we have not ventured, not being big enough to swim, although we have waded around a little in South Louisiana and in a Texas bay — and nearly drowned financially in just a few feet of calm water when we stuck our dlobber in the dirt, differentially, three times and had to sidetrack each time — may you never have a daily drilling report beginning 'STTD-3 14, 453.'"

5. A second instance of confusion was of less concern: "A couple of years ago your people here in Dallas through postal error received one of our run checks, but they were kind enough to send it on to us after meticulously and exhaustively satisfying themselves that it represented production from a lease in which neither you nor any of your predecessors, subsidiaries, affiliates, etc. ever had any interest. The Exxon man apologized for opening our mail by mistake, explaining, rather wistfully I thought, 'You know, we were once a Humble company.' We have never received any of your run checks or mail but you may rest assured that if we do we shall forward them promptly and directly to you personally."

6. Part of our attachment is sentimental. When my Grandmother was running Gulf's (and prior thereto Guffey's) operations in Texas from Beaumont during and after Spindletop, she hired some kid geologist who went on to find a bunch of oil for your predecessor and ended up as President of Humble Oil & Refining Company. The Lord only knows where you would be now if Grandmother hadn't hired that kid, trained him and then advised him to switch companies because Ben Bolt and some other older geologists she had could work up all the prospects she had budget enough to drill. But maybe, just maybe, you would have ended up like Mobil, forced into selling ladies' ready-to-wear, or like Gulf, bereft of meaningful reserves or control of crude both in the Permian Basin and in the Middle East, and, to boot, probably faced with increased premium costs on their directors' and officers' liability insurance policy."

7. Unfortunately, the opinion does not mention Pat's letter or (i) the efforts by him to bring culture to Central Texas by giving his wells such names as "Aphrodite" or "Hippolyte" (Pat testified "She was the Queen of the Amazons, and still is as far as I know"); or (ii) the concern that Exxon had because of a rumor that Pat had formed another corporation named "Arrogant Oil & Refining Company."