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14 Krishna Consciousness of California, Inc.

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 FOR THE COUNTY OF LOS ANGELES

**ORIGINAL FILED**  
MAY 05 1997  
LOS ANGELES  
SUPERIOR COURT

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19 BHAKTIVEDANTA BOOK TRUST  
INTERNATIONAL, INC., a California  
20 corporation; and INTERNATIONAL  
SOCIETY FOR KRISHNA  
21 CONSCIOUSNESS OF CALIFORNIA, INC., a  
California corporation,  
22 Plaintiffs,  
23 v.  
24 HANS KARY (aka "Hamsadutta"), a California  
25 citizen; and DOES 1  
through 10, inclusive,  
26 Defendants.

Case No. \_\_\_\_\_  
**COMPLAINT FOR  
DECLARATORY JUDGMENT  
REGARDING VALIDITY OF  
ASSIGNMENT AND EXISTENCE  
OF TRUST**  
  
[Code of Civil Procedure §§1060 et  
seq., Probate Code §§ 17000 et seq.]

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1 Plaintiffs, Bhaktivedanta Book Trust International, Inc., and ISKCON of California,  
2 Inc., for their Complaint herein, allege as follows:

3  
4 **JURISDICTION AND VENUE**

5 1. This Court has subject matter over this action based upon Code of Civil  
6 Procedure §§1060 et seq. and Probate Code §§ 17000 et seq. Defendant is a citizen and  
7 resident of California and therefore a basis exists for the Court to exercise personal jurisdiction  
8 over him.

9 2. Venue is proper in this Court under Probate Code § 17905(a)(1). In addition,  
10 venue is proper in this Court because this county is the place of execution and performance  
11 of an agreement, the validity of which is a subject matter of this action for declaratory relief.

12  
13 **THE PARTIES**

14 3. Plaintiff Bhaktivedanta Book Trust International, Inc. ("BBTI") is a non-profit  
15 religious corporation duly registered and in good standing under the Law of the State of  
16 California, having its principal place of business in Los Angeles, California. BBTI was  
17 organized in 1988 for the purpose of holding, administering, protecting and maintaining  
18 certain intellectual property rights, consisting primarily of (a) the national and international  
19 copyrights to numerous books, manuscripts and other documents written by His Divine Grace  
20 A.C. Bhaktivedanta Swami Prabhupada ("Sriila Prabhupada"), including the illustrations,  
21 glossaries and other matter prepared by Sriila Prabhupada's followers and included in such  
22 writings, and (b) the national and international trademarks relating to publication of the above-  
23 mentioned books. A true and correct copy of BBTI's Articles of Incorporation is attached  
24 hereto as Exhibit 1.

25 4. Plaintiff International Society for Krishna Consciousness of California, Inc.  
26 ("ISKCON of California") is a non-profit religious corporation duly registered and in good  
27 standing under the Law of the State of California, with its principal place of business in Los

1 Angeles, California. ISKCON of California was organized in 1975 and succeeded in 1976 by  
2 assignment to all rights, title and interest to various property rights, including all copyrights  
3 and trademarks, formerly held by International Society for Krishna Consciousness, Inc.  
4 ("ISKCON, Inc.") a corporation organized under the laws of the State of New York. ISKCON  
5 of California from its inception in 1975 has continually operated as the Los Angeles temple  
6 of the Hare Krishna movement founded by Srila Prabhupada ("the Movement"), and until 1987  
7 operated as the principal publisher of Srila Prabhupada's books and other writings.

8 5. Upon information and belief, defendant Hans Kary is, and at all times herein  
9 mentioned was, a resident of the State of California. Also known as "Hamsadutta", defendant  
10 Mr. Kary was once a leader within the Movement, having joined in approximately 1967. In  
11 the early 1980s, Mr. Kary became embroiled in controversy and scandal, and was thereafter  
12 excommunicated from the Movement and expelled from his positions on the Movement's  
13 Governing Body Commission and the Board of Trustees of the Movement's international book  
14 publishing business (commonly known as the "Bhaktivedanta Book Trust" or "BBT").

15 6. Plaintiffs do not know the true names and capacities of defendants sued herein  
16 as DOES 1 through 10, inclusive, and therefore sues these defendants by such fictitious names.  
17 Plaintiff will seek leave to amend this Complaint to allege their true names and capacities  
18 when ascertained. On information and belief, plaintiffs allege that each of the fictitiously-  
19 named defendants is a proper party defendant to this action.

#### 20 21 NATURE OF THE DISPUTE

22 7. This action is necessitated by a disingenuous, unexpected defense raised in a  
23 copyright infringement suit brought in Singapore by plaintiff BBTI. BBTI succeeded by  
24 assignment to certain copyrights and other intellectual property formerly held by various legal  
25 entities as part of the Movement's international religious book publishing operations.

26 8. Defendant Hans Kary is a former leading member of the Movement who was  
27 excommunicated and expelled in 1984 from all authoritative posts within the Movement,

1 including his position as "BBT Trustee", for moral turpitude and breaches of fiduciary duty.  
2 Following his excommunication, he ceased to act in any administrative capacity in any  
3 Movement-affiliated corporation or entity, including in particular any entity concerned with  
4 the publication or licensing of the copyrighted books written by Srila Prabhupada.

5 9. After being excommunicated, Mr. Kary did not challenge the decision, nor did  
6 he make any claim to continue acting in any capacity as "BBT Trustee". He had previously  
7 acted as one member of a board of several "co-trustees", and participated with those he  
8 recognized as co-trustees in meetings and various activities in connection with the Movement's  
9 book publishing operations. In 1984 and thereafter, Mr. Kary's involvement in those  
10 operations completely ceased, while the other trustees continued to carry on as before.

11 10. Upon information and belief, years after Mr. Kary had been excommunicated  
12 from the Movement, he and a handful of his followers formed a splinter group to continue  
13 their missionary activities. Some of Mr. Kary's followers in Singapore were found to be  
14 distributing unauthorized copies of Srila Prabhupada's books, and BBTI instituted an action  
15 for copyright infringement in Singapore. In those proceedings, Mr. Kary submitted an  
16 affidavit asserting, among other things, that he had been appointed for life as trustee of a  
17 California trust which purportedly still holds legal title to the copyrights in question, that the  
18 publication of the books in Singapore proceeded on his permission which as trustee he was  
19 entitled to grant, and that he has no knowledge of the assignment to BBTI and questions its  
20 validity. His sworn testimony misleadingly suggests that he is still guiding the Movement's  
21 book publishing operations, and that BBTI has nothing to do with such operations. A true and  
22 correct copy of Mr. Kary's Affidavit of Evidence-In-Chief submitted to the Singapore Court  
23 is attached hereto as Exhibit 2.

24 11. BBTI submitted affidavits in Singapore explaining the situation of Mr. Kary's  
25 removal from the Movement in 1984, and copies of an assignment executed more than five  
26 years later by which BBTI acquired ownership of the copyrights. A true and correct copy of  
27 the Affidavit of Evidence-In-Chief submitted by BBTI's president Mats Olausson in the

1 Singapore Court is attached hereto as Exhibit 3. However, in February of this year, the  
2 Singapore defendants proposed to submit further affidavits, including that of a purported  
3 expert witness on California Law of Trusts, challenging the validity of the assignment. A true  
4 and correct copy of the proposed Affidavit of Evidence-in-Chief of the Singapore defendants'  
5 expert witness Timothy Harris is attached hereto as Exhibit 4.

6 12. The arguments raised by these affidavits submitted or proposed to be submitted  
7 by the defendants in Singapore call into question the ownership of a number of copyrights,  
8 representing the bulk of BBTI's assets, of immeasurable value to BBTI.

9 13. One of the issues raised in the Singapore Court by defendants in that proceeding  
10 is whether Messrs. Beca and Owen actually signed the assignment dated May 15, 1990. They  
11 did so. A copy of that assignment is attached hereto as Exhibit 5.

12 14. An actual controversy has arisen and now exists between plaintiffs and defendant  
13 concerning their respective rights and duties, in that plaintiff BBTI contends that it owns  
14 numerous copyrights by virtue of certain assignments, including in particular Exhibit 5 hereto,  
15 whereas defendant disputes these contentions and contends that he, Hans Kary, owns legal title  
16 to those copyrights as trustee for life of "Bhaktivedanta Book Trust", and in particular that  
17 Exhibit 5 hereto has no force and is invalid.

18

19 **CALIFORNIA IS THE NATURAL FORUM FOR THIS DISPUTE**

20 15. California -- not Singapore -- is the natural forum for these issues to be decided,  
21 because the subject matter of the Singapore allegations involves the existence of a trust that  
22 was established in the County of Los Angeles to be administered there, because all parties  
23 agree these issues are to be decided in accordance with California law, and because most of  
24 the relevant evidence and witnesses are present in California, while none of the evidence or  
25 witnesses relevant to these issues are present in Singapore.

26 16. Although plaintiff BBTI selected Singapore as the forum in which to pursue a  
27 simple copyright infringement suit, Mr. Kary by his affidavit and the Singapore defendants

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1 by additional proposed affidavits unexpectedly raised other issues of great importance to  
2 plaintiffs which are especially suited to be determined by this Court. An adverse decision by  
3 the Subordinate Court of the Republic of Singapore could potentially have preclusive effect  
4 upon future litigation of the same issues elsewhere. Because of this, plaintiff BBTI has  
5 informed the Court in Singapore of its intention to file this action in California and thereafter  
6 petition the Singapore Court for a stay of those proceedings while these issues are determined  
7 by the California Court. The Singapore Court has granted plaintiff until May 19, 1997, to  
8 submit such a petition for stay of proceedings.

9  
10 **THE HISTORY OF THE MOVEMENT AND MR. KARY**

11 17. Srila Prabhupada, an Indian monk and spiritual teacher in the devotional Vedic  
12 (i.e., Hindu) religious tradition known as Gaudiya Vaisnavism, came to the United States in  
13 1965 at the age of 69. A prolific author, Srila Prabhupada brought with him from India his  
14 first edition of Srimad Bhagavatam, Canto One, consisting of three volumes.

15 18. Starting in New York City, Srila Prabhupada eventually attracted a small group  
16 of dedicated followers, and in 1966 he arranged for the incorporation of ISKCON, Inc. under  
17 the laws of the State of New York. Thereafter, as the Movement expanded and established  
18 centers in many cities throughout the world, various other legal entities were organized or  
19 incorporated. The Movement today is a voluntary association of many fully autonomous  
20 religious corporations and other legal entities. By the time Srila Prabhupada passed away in  
21 November, 1977, there were more than 100 centers, known as "temples", around the world.  
22 Today, there are over 300.

23 19. The spiritual tradition taught by Srila Prabhupada is very demanding, requiring  
24 serious practitioners to strictly abstain from intoxication, sex outside of marriage, meat-eating,  
25 and gambling. Practitioners (who refer to themselves as "devotees") are expected to strive to  
26 dedicate every act to the service of God. Serious devotees normally reside in or very near  
27 temples so they can attend morning and evening services with other devotees. While their

1 from Mr. Kary, every single individual now living who ever served as a BBT Trustee is  
2 willing to confirm and ratify the transfer of ownership to BBTI.

3  
4 WHEREFORE, plaintiffs pray judgment as follows:

5  
6 1. For a declaration that plaintiff ISKCON of California, Inc. validly transferred all of its  
7 rights, title and interest to the copyrights in Srila Prabhupada's books to plaintiff BBTI, by  
8 virtue of the assignment dated May 15, 1990, a copy of which is attached hereto as Exhibit 5.

9 2. For a declaration that the express trust created by the California Trust Document,  
10 (a copy of which is attached hereto as Exhibit 9), was extinguished by consent of all the  
11 trustees and beneficiaries and any copyrights to Srila Prabhupada's books formerly owned by  
12 that trust were thereafter validly assigned to plaintiff BBTI.

13 3. For a declaration that the express trust created by the Indian Trust Document  
14 (Exhibit 8) was extinguished by consent of all the trustees and beneficiaries and the  
15 intellectual property thereof was validly assigned to plaintiff BBTI by virtue of the Indian  
16 Assignment, a copy of which is attached hereto as Exhibit 11.

17 4. For a declaration that Mr. Kary is permanently estopped from asserting he is a  
18 trustee of the trust created by the California Trust Document (Exhibit 9), or is otherwise  
19 authorized to grant or withhold authority to any person to reproduce Srila Prabhupada's books.

20  
21 IN THE ALTERNATIVE, should the Court determine that the trust created by the  
22 California Trust Document is still in existence, plaintiffs pray judgment as follows:

23 5. For an Order identifying the beneficiary of that trust as plaintiff ISKCON of  
24 California, Inc., and the trustees of that trust as the following seven individuals: (1) Gopal  
25 Krishna Goswami (Gopal Khanna), (2) Naresvara dasa (Norman D'Costa), (3) Harikesa Swami  
26 (Robert Campagnola), (4) Madhusevita dasa (Massimo Brioli), (5) Jayadvaita Swami (Jay  
27 Israel), (6) Svavasa dasa (Emil Beca), and (7) Isvara Swami (Eneas Guerriero).

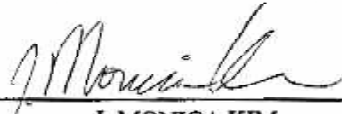
1 IN THE ALTERNATIVE, should the Court determine that the trust created by the  
2 California Trust Document is still in existence and that Hans Kary is still a trustee of that trust,  
3 plaintiffs pray judgment as follows:

4 6. For an Order dismissing Hans Kary as a trustee and ordering him to render an  
5 accounting to the beneficiary of that trust, plaintiff ISKCON of California, Inc., and to  
6 disgorge any profits realized or funds collected on behalf of plaintiff ISKCON of California,  
7 Inc., and to turn over such amounts to plaintiff ISKCON of California, Inc.

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DATED: May 5, 1997

COUDERT BROTHERS

By:   
J. MONICA KIM  
Attorneys for Plaintiff Bhaktivedanta Book Trust  
International, Inc.



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VERIFICATION

I, Mats Olausson, declare:

I am the President of plaintiff Bhaktivedanta Book Trust International, Inc. in the above entitled action. I have read the foregoing complaint and know the contents thereof. The facts set forth therein are true, either of my own personal knowledge or on information and belief.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct and that this declaration was executed on May 5, 1997, at Hoerby, Sweden.

  
MATS OLAUSSON

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