

[The Trademark Wars](#)

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The Trademark Wars

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Registered trademarks are the province of big corporations like Coca-Cola, Exxon and Apple Computer, right? Wrong. As our page one story shows, Hindu-based institutions in the US are scurrying to gain legal control over Hindu terms they consider valuable and wish to own.

This is a serious issue, for which people are threatening to sue. When we asked a San Francisco copyright attorney to help us unravel the Siddha Yoga protection story, he offered that "this is a complex field, with a million cases and a million opportunities for argument on both sides." He added that money plays a big part, "Challenging a trademark protected by US law would cost from \$20,000 to \$70,000. That creates a downside to many cases, in which companies with 200-lawyer firms often prevail over smaller ones, or scare them off." His bottom line: Any litigation in such a case would most likely be settled by motions in the court, based on law, rather than go the full length of a trial.

Trademarks have their origin in the rule that no man has the right to put his goods or services for sale as the goods or services of another person. Such marks have two purposes. One is to protect the owner from unfair competition and the second is to protect the public from imitations.

In actual practice, trademarks have developed into a property in their own right. Because the law grants the trader exclusive use of the mark, independent of whether a competitor is trying to copy him. Thus trademark law prohibits acts which might not be calculated to deceive.

It seems a shame - and a waste - for Hindu institutions to struggle for exclusive use of the words that have been our common heritage for so long. Would it not be loftier to leave the general terms available to all who seek to share the dharma? Do Hindus really want to "own" our philosophical treasures and risk resource-draining conflicts?

Of course, prudent protection is legitimate. The issue of HINDUISM TODAY which you hold in your hand is copyrighted. In addition, HINDUISM TODAY(R) is a registered trademark assuring our right to produce and distribute this newspaper, and prohibiting others from trying to steal our thunder. Most institutions protect their name and their publications, for good reasons.

The big question is: When is protection of a name reasonable and when does it cross the line and unfairly limit the rights of other? When is a term unique (we think Hinduism Today is and certainly Siddha Yoga Dham as an institution is) and when is it so generic that allowing one person exclusive use of it would unduly constrain others? When, in other words, is a copyright a copywrong? We think SYDA has crossed that line. In fact, we know it did. The term Siddha Yoga is used by a dozen institutions that we personally know, and it appears in numerous Hindu philosophical treatises. The term was not coined by Swami Muktananda, as the application alleges. In our judgement, it should not have been granted by the US Trademark Office. We think protecting the name Gurumayi (another SYDA trademark) is also going over the edge. It is the equivalent of seeking to own the English term Holy Mother and deny others its use.

SYDA publishes a beautiful magazine called "Darshan." The trademark for this journal does not give SYDA any additional exclusive rights to use the word darshan. You and I can use it freely, but we cannot publish a magazine with that name. That's fair.

And that's an important difference between a copyright and a service mark. The service mark "Siddha Yoga" is protected, whether it appears as "Siddha Yoga Meditation" or "Siddha Yoga Guru." SYDA is apparently seeking to possess a "family" of such terms. Siddha Yoga belongs to SYDA. You and I cannot use it for seminars. The Kriya Kundalini Siddha Yoga Groups in Suriname and Holland cannot advertise their classes in New York. Making a poster displaying siddha yoga is now a crime.

Where does it end? What if this trend continues for 10 years? Consider our tongue-in-cheek worst case scenario.

You are a successful hatha yoga teacher and advertise your YMCA classes in the July 4th, 2001, edition of the Chicago Tribune. It's an increasingly ecumenical world and atheists, Buddhists, Christians, Jews and humanists all attend, enjoy the exercises, learn how to manage stress in their life and discover they can tune up their own nervous system like a symphony violinist tunes her Stradivarius.

Just when it seems you may be helping ratchet up human consciousness a millimeter or two, you get a call from the Word Cops, that newly legislated militia whose mission is to see you don't use words that belong to others. "Words are property," they warn you darkly, "don't pilfer them."

An hour later there's a knock at the door. You freeze, fearing it's the Word Cops. It's not. It's the one Hindu who showed up for your YMCA class, and he's hopping mad. He's brought his attorney who hands you a 5-pound document. "What' this?" you inquire. "Read it," the suit urges.

You wade dangerously into the murky legal jargon, silently wishing solicitors, barristers, attorneys, counselors, advocates and other litigious types would just say what they mean in dirt-plain English. Instead the letter says:

"Dear Ms. Mataji: This is to advise you that we are legal counsel for GOHD, the Global Owners of Hindu Dharma. WHEREAS our client is the rightful owner of various trademarks and service marks including, but not limited to the following: HATHA YOGA, RAJA YOGA, ASHTANGA YOGA, TRANSCENDENTAL MEDITATION, KUNDALINI YOGA DHARMA, RAMAKRISHNA, BABA, BABAJI, VEDIC, AYURVEDIC, MATAJI, ADVAITA VEDANTA, SATCHIDANANDA, SAMADHI, AVATAR, GURU, GURUDEV, SADHANA, PUJA, SIDDH YOGA, CHAKRA, BHAGWAN, ASHRAM, MANDIR, KRISHNA, SIVA, RAMA, BHARAT, GITA, TANTRA, YANTRA, MANTRA, SWAMI, SANNYAS; and whereas you did willfully and maliciously use one or more of these marks in advertising your spiritual classes; NOW THEREFORE, pursuant to the esoteric decrees of the United States Trademark and Patent Office we enjoin you from further use of these words, including your name (which we own) and warn that we shall seek all fatuous judicial sanctions including just and reprehensible

compensation from you and your heirs and assigns (whether they be singular, or plural, individuals or associations, trustees or corporations and/or their representatives, executors, sycophants or scofflaws, according to the context thereof, jointly or severally or otherwise). Should you persist in these felonious and felicitous acts, be advised that GOHD will punish you via adjudicated penalties subsumptive of those stipulated in Section 97, Paragraph 26 3 of the appended monotonous instrument. Wishing you a nice day, we remain most sincerely yours..."

"Do you mean I can't use the term "hatha yoga?" you asked meekly. "No, it means it would be perfidious and imprudent to do so and litigation would ineluctably ensue." "I see," you mumble, wondering if that was a yes or a no, and mentally preparing a list of nations where you might teach your spiritual art under a more benign law, say in Syria or Iraq.

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