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9 Attorneys for Defendants and Counterclaimant

10  
 11 **UNITED STATES DISTRICT COURT**  
 12 **DISTRICT OF NEVADA**

13 \* \* \* \* \*

14 KANTI GALA, an individual; HEMI GALA, an  
 15 individual; GALA WORLDWIDE, INC., a  
 Virginia corporation,

16 Plaintiffs,

17 vs.

18 WILLIAM B. BRITT, an individual; PEGGY  
 19 BRITT, an individual; KANTI GALA (II), an  
 20 individual; BRITT WORLDWIDE, LLC, a  
 21 Nevada limited liability company; TRINITY  
 22 EDUCATIONAL SYSTEMS, LLC, a Nevada  
 limited liability company,

23 Defendants.

Case No. 2:10-cv-00079-RLH-RJJ

**STIPULATION AND ORDER TO  
 DISMISS ACTION AND VACATE  
 ALL ORDERS**

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1 BRITT WORLDWIDE, LLC, a Nevada limited  
2 liability company,

3 Counterclaimant,

4 vs.

5 KANTI GALA, an individual; HEMI GALA, an  
6 individual; GALA INTERNATIONAL, INC., a  
7 Virginia corporation,

8 Counterdefendants.  
9 \_\_\_\_\_/

9 WHEREAS, when Plaintiffs originally filed their Complaint in this matter, and  
10 subsequently requested other relief, Plaintiffs relied on allegations of diversity jurisdiction  
11 pursuant to 28 U.S.C. § 1332 to confer jurisdiction of the claims with this Court.

12 WHEREAS, when Defendants applied for enforcement of the underlying arbitration  
13 award pursuant to the Federal Arbitration Act, Defendants relied upon diversity jurisdiction  
14 pursuant to 28 U.S.C. § 1332 to confer jurisdiction of this Court over the Application for  
15 Enforcement of Arbitration Award.

16 WHEREAS, thereafter, this Court entered various Orders relating to the Complaint and  
17 enforcement of the underlying Arbitration Award.

18 WHEREAS, Plaintiffs appealed this Court's Orders to the Ninth Circuit Court of  
19 Appeals.

20 WHEREAS, on March 8, 2012, the Ninth Circuit Court of Appeals issued an Order  
21 directing the parties to address the issue of whether this Court and the Ninth Circuit Court of  
22 Appeals had jurisdiction over the claims in this matter based on the cases of Johnson v.  
23 Columbia Prop. Anchorage, LP, 437 F.3d 894, 899 (9<sup>th</sup> Cir. 2006) and Mantin v. Broadcast  
24 Music, Inc., 244 F.2d 204, 206-07 (9<sup>th</sup> Cir. 1957).

25 WHEREAS, pursuant to Johnson, when addressing diversity jurisdiction when one of the  
26 parties is a limited liability company, the Court looks to the citizenship of each member of the  
27 LLC to determine if there is diversity of citizenship to confer federal court jurisdiction.

28 //



1           WHEREAS, Defendant Britt Worldwide, LLC had at least one member of Britt  
2 Worldwide, LLC who was a citizen of Virginia (as that term is defined for evaluation of  
3 diversity jurisdiction purposes) both at the time that Plaintiffs filed the Complaint in this matter  
4 on January 20, 2010 as well as at the time Defendants filed their Application for Enforcement of  
5 Arbitration Award on June 21, 2010.

6           WHEREAS, it is Plaintiff's position that Plaintiffs Kanti Gala and Hemi Gala are  
7 citizens of the State of Virginia for purposes of evaluation of diversity jurisdiction. Moreover, it  
8 is undisputed that Plaintiff Gala Worldwide, Inc. is a Virginia corporation with its principal  
9 place of business in Virginia, and is a citizen of the State of Virginia for purposes of diversity  
10 jurisdiction under 28 U.S.C. § 1332.

11           WHEREAS, all parties to this action ultimately determined that there is no valid  
12 diversity jurisdiction in this matter because at least one Plaintiff is a citizen of Virginia for  
13 purposes of evaluating diversity jurisdiction and, pursuant to Johnson, Britt Worldwide, LLC is  
14 also a citizen of Virginia for purposes of evaluating diversity jurisdiction because at least one  
15 member of Britt Worldwide, LLC is a citizen of Virginia.

16           WHEREAS, the parties agree that there is no independent basis for federal subject matter  
17 jurisdiction over the claims in the Complaint or the Application for enforcement of an arbitration  
18 award.

19           WHEREAS, oral argument was held at the Ninth Circuit Court of Appeals in this matter  
20 on March 16, 2012.

21           WHEREAS, at the time of the oral argument, the parties made the representations to the  
22 Court consistent with the facts identified above, relating to the apparent lack of diversity or  
23 subject matter jurisdiction.

24           WHEREAS, on April 4, 2012, the Ninth Circuit Court of Appeals entered its Order  
25 vacating the District Court's Judgment and remanding the case to the District Court to consider  
26 whether subject matter jurisdiction exists in this matter.

27           WHEREAS, as the parties represented to the Ninth Circuit Court of Appeals during oral  
28 argument, the parties acknowledge and agree that there is no basis for this Court having subject



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matter jurisdiction over the claims of this action or over the application for enforcement of the arbitration award.

Therefore, the parties hereby acknowledge, stipulate, and agree as follows:

1. There is not now, nor has there ever been, diversity jurisdiction in this matter pursuant to 28 U.S.C. § 1332; and

2. There is no independent basis for subject matter jurisdiction over the claims asserted and other relief requested in this matter (including the Application for Enforcement of Arbitration Award filed by Defendants).

3. That because this Court has never had jurisdiction over this matter, all of the Orders issued by this Court are null, void, and must be vacated.

Dated this 25<sup>th</sup> day of April, 2012.

Dated this 25<sup>th</sup> day of April, 2012.

McDONALD CARANO WILSON LLP

CONNAGHAN/NEWBERRY LAW FIRM

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Attorneys for Defendants and Counterclaimant

Attorneys for Plaintiffs and Counterdefendants

**ORDER OF THE COURT**

1  
2 THE DISTRICT COURT FINDS that it lacks subject matter jurisdiction, due to lack of  
3 diversity between the parties pursuant to 28 U.S.C. § 1332, for the original Complaint, the  
4 Defendants' Application for Enforcement of the Arbitration Award under the Federal  
5 Arbitration Act, or for any other relief requested by the parties; and

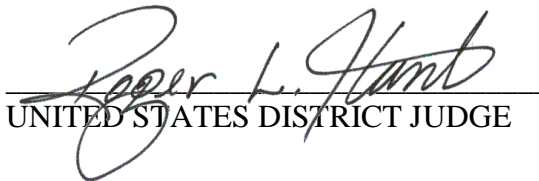
6 There is no independent basis for subject matter jurisdiction over the claims asserted or  
7 other relief requested in this matter (including the Application for Enforcement of Arbitration  
8 Award filed by Defendants).

9 THE DISTRICT COURT CONCLUDES THAT because this Court has never had  
10 jurisdiction over this matter, all of the Orders issued by this Court are null, void, and must be  
11 vacated.

12 THEREFORE, IT IS SO ORDERED that this matter is hereby dismissed for lack of  
13 subject matter jurisdiction, as to all parties and all claims, without prejudice.

14 IT IS HEREBY FURTHER ORDERED that all prior Orders issued by this Court are  
15 hereby vacated.

16 DATED: This 27th day of April, 2012.

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18   
19 UNITED STATES DISTRICT JUDGE

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24 334024.3/PJG:cj