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Who controls Cato Institute? Koch brothers ask the courts

By Matt Pearce Reporting from Kansas City, Mo.

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The markets can't solve everything: Billionaire brothers and libertarian icons Charles and David Koch are taking to the courts to solve an ownership dispute involving the Cato Institute.

The president of the institute, a longtime pillar of free-market thinking in Washington -- calls the move an attempt "to transform Cato from an independent, nonpartisan research organization into a political entity" with a "partisan agenda."

The oil-rich Kochs — champions for the business-minded right and reviled by the left — have donated hundreds of millions to charitable causes but are better known for backing tea party groups and influencing battles over climate change and federal regulation.

They preside over an ideological network some call "the Kochtopus." The network consists of an array of politically influential nonprofit groups and foundations espousing libertarian views; one of those is the Cato Institute.

The Cato Institute spent $11.5 million in 2010 researching areas such as healthcare, economic, environmental and international policy "in order to promote and disseminate libertarian philosophy and ideas," according to tax records. It spent $7 million more producing dozens of papers and analyses, 12 audio CDs, 10 books, and almost 500 forums and seminars.

In the philosophy of libertarianism, ownership is often everything, and the Kochs' lawsuit — filed in Johnson County, Kansas, where the Cato Institute has an office — plunges into an internal battle over who owns 25% of the institute's shares. The Kochs hold 50% of the shares and possibly stand to hold more if they win the suit.

"We view [Charles] Koch's actions as an attempt at a hostile takeover, and intend to fight it vehemently in order to continue as an independent research organization, advocating for individual liberty, limited government, free markets and peace," Cato Institute President and co-founder Ed Crane said in a statement to The Washington Post.

The current Cato Institute was founded in, ironically enough, San Francisco in 1977, and the original began three years earlier as a Kansas nonprofit named the Charles Koch Foundation Inc.

It was recently chaired by William Niskanen, who retired in 2008 and died in October; his 25% ownership share transferred to his wife, which the Koch brothers believe under shareholders' agreements must be sold back to the institute.

"Over the past several months, Charles Koch and David Koch have made multiple efforts to resolve this issue," Wes Edwards, an attorney for the brothers, said in a statement quoted by the Associated Press. "Reluctantly, they believe the time has come to ask the court for help in confirming the meaning of the shareholders' agreement."

Cato head Crane thinks the shares belong to Niskanen's widow, Kathryn Washburn; the Kochs disagree. The suit filed on Wednesday names her, the institute and Crane — the fourth shareholder — as defendants.

According to its latest tax filing for 2010, the Cato Institute's four shareholders each had 25% stakes in the $52 million, 200-employee nonprofit organization.

If the Kochs get Niskanen's shares — which the suit says they can purchase if the institute doesn't — they would hold more power over Cato's board, whose members can be removed by a majority shareholder vote, tax documents say; that could mean two Koch brothers versus one Ed Crane.