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Golan v. Gonzalez

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GOLAN V. GONZALEZ

2005 U.S. Dist. LEXIS 6800 (D. Colo. Apr. 20, 2005)

The District Court for the District of Colorado ruled that section 514 of the Uruguay Round Agreement Act ("URAA"), codified at 17 U.S.C. § 104A, was constitutional.

Section 514 of the URAA restored copyright protection to original works of foreign origin whose protection had lapsed due to failure to comply with statutory copyright formalities which have since been repealed. Plaintiffs, who exploited intellectual property in the public domain, filed claims for injunctive and declaratory relief alleging the unconstitutionality of the URAA. Plaintiffs argued that the URAA violated the Copyright and Patent Clause of the U.S. Constitution by removing artistic works from the public domain. They also claimed that removing works from the public domain was a violation of their First Amendment rights. Finally, the plaintiffs argued that under the substantive due process protections of the Fifth Amendment the retroactive nature of the URAA was fundamentally unfair.

In 2004, the district court denied a motion to dismiss the claim challenging the constitutionality of the URAA. According to the court, the reasoning in *Eldred v. Ashcroft*, 537 U.S. 186 (2003), did not foreclose a similar claim with regard to the URAA. Whether the URAA altered traditional First Amendment safeguards and hence should be subject to greater scrutiny, the court stated, could also not be resolved on a motion to dismiss. The court also found that plaintiffs stated a cognizable claim for relief by arguing that the URAA was an arbitrary and irrational retroactive law.

In 2005, however, the court granted summary judgment for the U.S. government, holding that the URAA was lawfully enacted, rationally related to the government's interests, and did not infringe on the plaintiff's constitutional rights. After an exhaustive examination of patent and copyright protection in the United States, the court found that Congress had previously acted to remove works from the public domain. Further, according to the court, past precedent suggested that such removal causes little harm to the progress of the arts and sciences because ideas remain in the public domain even after the copyright in protectable expression is returned to the author. The court further found that Congress demonstrated a rational basis for enactment of the URAA, in protecting American au-

thors' interests abroad by adhering to international intellectual property treaties.

The court rejected plaintiffs' claim that their First Amendment rights were violated, noting that the plaintiffs were still free to license the expressions in question and that private censorship deriving from copyright does not implicate the First Amendment. The court rejected plaintiff's substantive due process claim by finding that the URAA granted retroactive benefits to authors, but did not place any retroactive burdens, aside from some lost investment, on the plaintiffs. The court further found that since Congress had historically restored copyright to works in the public domain, the plaintiffs could have no reasonable expectation of perpetual exploitation of foreign uncopyrighted works.