

10-545 GOLAN V. HOLDER

DECISION BELOW: 609 F.3d 1076

LOWER COURT CASE NUMBER: 09-1234, 09-1261

QUESTION PRESENTED:

Section 514 of the Uruguay Round Agreements Act of 1994 (Section 514) did something unique in the history of American intellectual property law: It "restored" copyright protection in thousands of works that the Copyright Act had placed in the Public Domain, where they remained for years as the common property of all Americans. The Petitioners in this case are orchestra conductors, educators, performers, film archivists and motion picture distributors, who relied for years on the free availability of these works in the Public Domain, which they performed, adapted, restored and distributed without restriction. The enactment of Section 514 therefore had a dramatic effect on Petitioners' free speech and expression rights, as well as their economic interests. Section 514 eliminated Petitioners' right to perform, share and build upon works they had once been able to use freely.

The questions presented are:

1. Does the Progress Clause of the United States Constitution prohibit Congress from taking works out of the Public Domain?
2. Does Section 514 violate the First Amendment of the United States Constitution?

JUSTICE KAGAN TOOK NO PART
CERT. GRANTED 3/7/2011