

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 01-B-1854

LAWRENCE GOLAN, et. al.

Plaintiffs,

v.

JOHN ASHCROFT, in his official
capacity as Attorney General of the
United States, et al.,

Defendants.

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WHEELER TRIGG KENNEDY LLP

ANSWER

Defendants John Ashcroft, in his official capacity as Attorney General of the United States of America, and Marybeth Peters, in her official capacity as Register of Copyrights, answer specifically the numbered paragraphs of plaintiffs' Second Amended Complaint, using the same numbering, as follows:

1. The allegations of paragraph one constitute a statement of plaintiffs' positions and conclusions of law, to which no answer is required. To the extent an answer is deemed required, denied.

2. The first four sentences of paragraph two constitute a statement of plaintiffs' positions and conclusions of law, to which no answer is required. To the extent an answer is

deemed required, denied. The final sentence of paragraph two characterizes the North American Free Trade Implementation Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act for a true and accurate account of its content.

3. The first two sentences of paragraph three characterize §514 of the Uruguay Round Agreements Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act for a true and accurate account of its content. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations in the final sentence of paragraph three.

4. Denied.

5. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph five.

6. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph six.

7. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph seven.

8. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph eight.

9. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph nine.

10. Defendants are without knowledge or sufficient information to form a belief as to

the truth of the allegations of paragraph ten.

11. Denied, except to admit that defendant John Ashcroft is Attorney General of the United States and that he is responsible for enforcing certain laws of the United States.

12. Admitted.

13. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph thirteen.

14. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph fourteen.

15. Paragraph fifteen characterizes §514 of the Uruguay Round Agreements Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act for a true and accurate account of its content.

16. Defendants are without sufficient information to form a belief as to the truth of the allegations of paragraph sixteen.

17. The first two sentences of paragraph seventeen characterize the Copyright Clause of the Constitution, to which no answer is necessary. Defendants respectfully refer the Court to the text of the Copyright Clause for a true and accurate account of its content. The remainder of paragraph seventeen constitutes a statement of plaintiffs' positions and conclusions of law, to which no answer is required.

18. Paragraph eighteen constitutes a statement of plaintiffs' positions and conclusions of law, to which no answer is required. To the extent that any answer is deemed necessary,

denied.

19. Paragraph nineteen constitutes a statement of plaintiffs' positions and conclusions of law, to which no answer is required. To the extent an answer is deemed required, denied.

20. Paragraph twenty constitutes a statement of plaintiffs' positions and conclusions of law, to which no answer is required.

21. Paragraph twenty-one constitutes a statement of plaintiffs' positions and conclusions of law, to which no answer is required. To the extent that any answer is deemed necessary, denied.

22. Defendants deny the first sentence of paragraph twenty-two. The remaining sentences characterize the United States' copyright statutes, to which no answer is necessary. Defendants respectfully refer the Court to the text of those statutes for true and accurate accounts of their content.

23. Paragraph twenty-three characterizes §514 of the Uruguay Round Agreements Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act for a true and accurate account of its content.

24. Paragraph twenty-four characterizes §514 of the Uruguay Round Agreements Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act for a true and accurate account of its content.

25. Paragraph twenty-five characterizes §514 of the Uruguay Round Agreements Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act

for a true and accurate account of its content.

26. Paragraph twenty-six characterizes §514 of the Uruguay Round Agreements Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act for a true and accurate account of its content.

27. Paragraph twenty-seven characterizes §514 of the Uruguay Round Agreements Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act for a true and accurate account of its content.

28. Denied, except that Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations as regards Plaintiffs.

29. Defendants deny the first sentence of paragraph twenty-nine, except that Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations as regards Plaintiffs. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of sentences two, four, and five. Sentence three characterizes the Copyright Act of 1909, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act for a true and accurate account of its content.

30. Paragraph thirty characterizes §514 of the Uruguay Round Agreements Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act for a true and accurate account of its content.

31. Paragraph thirty-one characterizes §514 of the Uruguay Round Agreements Act and the “first sale doctrine,” to which no answer is necessary. Defendants respectfully refer the

Court to the text of the URAA and the precedent cited by Plaintiffs for true and accurate accounts of their content.

32. Paragraph thirty-two characterizes §514 of the Uruguay Round Agreements Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act for a true and accurate account of its content.

33. Paragraph thirty-three characterizes §514 of the Uruguay Round Agreements Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act for a true and accurate account of its content.

34. Paragraph thirty-four characterizes §514 of the Uruguay Round Agreements Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act for a true and accurate account of its content.

35. Paragraph thirty-five characterizes §514 of the Uruguay Round Agreements Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act for a true and accurate account of its content.

36. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of sentence one of paragraph thirty-six. The final two sentences of paragraph thirty-six characterize a number of notices in the Federal Register, to which no answer is necessary. Defendants respectfully refer the Court to the text of those Federal Register notice for true and accurate accounts of their contents.

37. Defendants are without sufficient information to form a belief as to the truth of the

allegations of paragraph thirty-seven.

38. Denied.

39. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph thirty-nine.

40. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph forty.

41. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph forty-one.

42. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph forty-two.

43. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph forty-three.

44. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph forty-four.

45. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph forty-five.

46. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph forty-six.

47. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph forty-seven.

48. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph forty-eight.

49. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of the first two sentences of paragraph forty-nine. The final sentence of paragraph forty-nine is denied.

50. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph fifty.

51. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph fifty-one.

52. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph fifty-two.

53. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph fifty-three.

54. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph fifty-four.

55. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph fifty-five.

56. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph fifty-six.

57. Defendants are without knowledge or sufficient information to form a belief as to

the truth of the allegations of paragraph fifty-seven.

58. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph fifty-eight.

59. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph fifty-nine.

60. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph sixty.

61. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph sixty-one.

62. Defendants are without sufficient information to form a belief as to the truth of the allegations of paragraph sixty-two.

63. Defendants are without sufficient information to form a belief as to the truth of the allegations of paragraph sixty-three.

64. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph sixty-four.

65. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph sixty-five.

66. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph sixty-six.

67. Defendants are without knowledge or sufficient information to form a belief as to

the truth of the allegations of paragraph sixty-seven.

68. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph sixty-eight.

69. Defendants deny the first sentence of paragraph sixty-nine. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations in sentences two and three of paragraph sixty-nine. The remainder of paragraph sixty-nine characterizes §514 of the Uruguay Round Agreements Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act for a true and accurate account of its contents.

70. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of the first sentence of paragraph seventy. Defendants deny sentence two of paragraph seventy.

71. Defendants incorporate by reference their answers to all the foregoing paragraphs as if set forth herein.

72. Defendants deny the first sentence of paragraph seventy-two. The remainder of the paragraph constitutes a statement of plaintiffs' positions and conclusions of law, to which no answer is required. To the extent an answer is deemed required, denied.

73. Paragraph seventy-three constitutes a statement of plaintiffs' positions and conclusions of law, to which no answer is required. To the extent an answer is deemed required, denied.

74. Defendants deny the first sentence of paragraph seventy-four. The remainder of paragraph seventy-four characterizes §514 of the Uruguay Round Agreements Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act for a true and accurate account of its contents.

75. Denied.

76. The first sentence of paragraph seventy-six characterizes the Copyright Clause, to which no answer is necessary. Defendants respectfully refer the Court to the text of the Copyright Clause for a true and accurate account of its contents. The remainder of the paragraph constitutes a statement of plaintiffs' positions and conclusions of law, to which no answer is required. To the extent an answer is deemed required, denied.

77. Paragraph seventy-seven constitutes a statement of plaintiffs' positions and conclusions of law, to which no answer is required.

78. Defendants are without knowledge or sufficient information to form a belief as to the truth of the allegations of paragraph seventy-eight.

79. Defendants incorporate by reference their answers to all the foregoing paragraphs as if set forth herein.

80. Paragraph eighty characterizes the First Amendment to the Constitution, to which no answer is necessary. Defendants respectfully refer the Court to the text of the First Amendment for a true and accurate account of its contents.

81. Defendants deny the first sentence of paragraph eighty-one. The remainder of

paragraph characterizes §514 of the Uruguay Round Agreements Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of the Act for a true and accurate account of its contents.

82. Denied.

83. Paragraph eighty-three constitutes a statement of plaintiffs' positions and conclusions of law, to which no answer is required.

84. Defendants are without sufficient information to form a belief as to the truth of the allegations of paragraph eighty-four.

85. Defendants incorporate by reference their answers to all the foregoing paragraphs as if set forth herein.

86. Admitted.

87. Paragraph eighty-seven constitutes a statement of plaintiffs' positions and conclusions of law, to which no answer is required. To the extent that an answer is deemed required, denied.

88. Denied.

89. The first sentence of paragraph eighty-nine characterizes §514 of the Uruguay Round Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act for a true and accurate account of its contents. The remainder of paragraph eighty-nine constitutes a statement of plaintiffs' positions and conclusions of law, to which no answer is required. To the extent an answer is deemed required, Defendants are without knowledge or

sufficient information to form a belief as to the truth of the allegations.

90. Defendants deny the first, third, and fourth sentences of paragraph ninety. The second sentence characterizes §514 of the Uruguay Round Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act for a true and accurate account of its contents.

91. Defendants are without sufficient information to form a belief as to the truth of the allegations in paragraph ninety-one.

92. The first sentence of paragraph ninety-two characterizes §514 of the Uruguay Round Act, to which no answer is necessary. Defendants respectfully refer the Court to the text of that Act for a true and accurate account of its contents. The second sentence of paragraph 92 is denied. Defendants are without sufficient information to form a belief as to the truth of the allegations in the third and fourth sentences of paragraph ninety-two.

93. Denied.

94. Paragraph ninety-four constitutes a statement of plaintiffs' positions and conclusions of law, to which no answer is required.

95. Defendants are without sufficient information to form a belief as to the truth of the allegations of paragraph ninety-five.

The remainder of Plaintiffs' complaint presents prayers for relief, to which no answer is necessary. Defendants specifically deny each allegation of Plaintiffs' complaint not otherwise responded to.

WHEREFORE, Defendants deny that Plaintiffs are entitled to the relief requested or to any relief whatsoever, and request that the Court dismiss this action with prejudice and that the Court grant Defendants their costs, attorneys' fees, and such further relief as the Court deems just and proper.

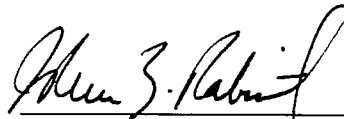
Dated: October 7, 2004

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that, on October 7, 2004, I caused a copy of the foregoing Answer to be served by first-class mail, postage prepaid, upon counsel at the following address:

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