

No. 10-545

**In the
Supreme Court of the United States**

LAWRENCE GOLAN, et al.,
Petitioners,

v.

ERIC H. HOLDER, JR., Attorney General, et al.,
Respondents.

*On Writ of Certiorari to the United States
Court of Appeals for the Tenth Circuit*

**BRIEF OF THE CONDUCTORS GUILD AND
THE MUSIC LIBRARY ASSOCIATION AS
AMICI CURIAE SUPPORTING PETITIONERS**

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INTEREST OF *AMICI CURIAE*

The Conductors Guild is the only music service organization devoted exclusively to advancing the art of conducting and serving the artistic and professional needs of conductors. It has a membership of over 1,600 members representing all fifty United States and more than thirty other countries.¹ The Guild’s goal is to enhance the professionalism of conductors by serving as a clearinghouse for information regarding the art and practice of conducting, and to support the artistic growth of orchestras, bands, choruses, and other conducted ensembles. The Guild also expresses the views and opinions of the conducting profession to the music community. Many Guild members serve as music directors and conductors for smaller orchestras that rely on the availability of classical works in the public domain for their performances.

The Music Library Association (“MLA”) is the professional association for music libraries and librarianship in the United States. Founded in 1931, it has an international membership of over 800 librarians, musicians, scholars, educators, and members of the book and music trades. Complementing the Association’s national and international activities are eleven regional chapters that carry out its programs on the local level. The

¹ The parties have consented to the filing of this brief.

No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than amicus curiae, its members, or its counsel made a monetary contribution to its preparation or submission.

MLA provides a professional forum for librarians, archivists, and others who support and preserve the world's musical heritage.

SUMMARY OF ARGUMENT

This case presents issues of enormous importance to the *amici*. Section 514,² alone among amendments to the Copyright Act, makes previously available works of art effectively unavailable for performance or scholarly analysis. Permitting Section 514 to remove from the public domain many landmark works of twentieth-century music—works by Prokofiev, Stravinsky, Shostakovich, and others—imposes a tremendous financial burden on local and regional music organizations and has a debilitating effect on music scholarship. Perhaps more important, it also risks preventing a new generation of performers and music lovers from experiencing or studying a transformative period in musical innovation.

Some privileged musical organizations in larger cities can afford to continue performing the affected works. But their musicians and patrons make up a tiny fraction of the nation's musicians and music lovers. Most Americans are exposed to the arts not by these few wealthy entities, but in their schools and local communities. These smaller musical entities face limited and inflexible budgets, and removing important works from the public domain will force them to forego performing these works at all. Music

² “Section 514” refers to the corresponding section of the Uruguay Round Agreements Act (“URAA”), Act of Dec. 8, 1994, Pub. L. No. 103-465, 108 Stat. 4809.

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