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"LOSING TO DISNEY: THE COMPLEX LESSON OF *ELDRED V. ASCROFT* AND THE CORPORATE CONTROL OF COPYRIGHT"

"Corporate control over copyright policy in the United States is strikingly illustrated by the Supreme Court's 2003 decision in *Eldred v. Ashcroft* which upheld a 20-year *retroactive* legislative extension of terms for existing copyrights in the United States. Given that proponents of the legislation (Disney, the American Motion Picture Assoc., etc.) successfully lobbied for an *unconditional* term extension, the venerable *quid pro quo* (utilitarian) theory of U.S. copyright law must be declared dead. Although *Eldred* might be read to signal complete victory for corporate copyright holders, a closer look at statutory and judge-made exceptions to owners' rights in the United States reveals an interesting pattern. One can perceive a projection of a powerful set of owners' rights into the international arena (via TRIPS and the bilateral agreements), while within the borders of the United States, the public domain and users rights are kept alive by a disjointed series of statutory and judge-made exceptions. In other words, a relatively user-friendly domestic copyright policy keeps American consumers quiet and uninterested in the world-wide debate over owners' rights, while their government successfully demands unconditional copyright concessions from its trading partners. For a non-industrialized county with a competent judiciary and an uncorrupted legislature, the lessons to be learned from this experience might be quite useful in resisting the TRIPS+/Berne+ attitude of the industrialized world.."