

Syllabus

COSTCO WHOLESALE CORP. *v.* OMEGA, S. A.CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

No. 08–1423. Argued November 8, 2010—Decided December 13, 2010
541 F. 3d 982, affirmed by an equally divided Court.

Roy T. Englert, Jr., argued the cause for petitioner. With him on the briefs were *Ariel N. Lavinbuk*, *Norman H. Levine*, and *Aaron J. Moss*.

Aaron M. Panner argued the cause for respondent. With him on the brief were *Michael K. Kellogg* and *Matthew C. Wagner*.

Deputy Solicitor General Stewart argued the cause for the United States as *amicus curiae* urging affirmance. With him on the brief were *Acting Solicitor General Katyal*, *Assistant Attorney General West*, and *Melissa Arbus Sherry*.*

*Briefs of *amicus curiae* urging reversal were filed for the American Library Association et al. by *Jonathan Band*; for eBay, Inc., et al. by *David B. Salmons* and *Mary T. Huser*; for the Entertainment Merchants Association et al. by *John T. Mitchell* and *Kathleen Hartnett*; for Intel Corp. by *Theodore B. Olson*, *Matthew D. McGill*, and *Tina M. Chappell*; for Public Citizen by *Gregory A. Beck*, *Adina H. Rosenbaum*, and *Allison M. Zieve*; for Public Knowledge et al. by *Gigi B. Sohn*; and for the Retail Industry Leaders Association et al. by *Seth D. Greenstein*.

Briefs of *amicus curiae* urging affirmance were filed for the American Bar Association by *Stephen N. Zack* and *Thomas C. Goldstein*; for the American Watch Association by *Ronald G. Dove, Jr.*; for the Association of American Publishers by *Charles S. Sims* and *Jon A. Baumgarten*; for the Business Software Alliance by *Andrew J. Pincus*; for FUJIFILM Corp. et al. by *Lawrence Rosenthal*; for the Motion Picture Association of America, Inc., et al. by *Seth P. Waxman*, *Randolph D. Moss*, *Catherine M. A. Carroll*, and *Jennifer L. Pariser*; and for the Software & Information Industry Association by *Scott E. Bain*.

Briefs of *amicus curiae* were filed for the American Intellectual Property Law Association by *Patrick J. Coyne*; and for the Intellectual Property Owners Association by *George L. Graff*, *Kevin Rhodes*, *Victoria A. Cundiff*, *Rebecca K. Myers*, and *Laura K. Isenberg*.

Per Curiam

PER CURIAM.

The judgment is affirmed by an equally divided Court.

JUSTICE KAGAN took no part in the consideration or decision of this case.