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SUPREME COURT OF THE UNITED STATES

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REED ELSEVIER, INC., ET AL. *v.* MUCHNICK ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE SECOND CIRCUIT

No. 08–103. Argued October 7, 2009—Decided March 2, 2010

The Copyright Act (Act) generally requires copyright holders to register their works before suing for copyright infringement. 17 U. S. C. A. §411(a). The complaint in this consolidated, class-action copyright infringement suit alleged that the named plaintiffs each own at least one copyright, typically in a freelance article written for a newspaper or magazine, that they had registered in accordance with §411(a). The class, however, included both authors who had registered their works and authors who had not. The parties moved the District Court to certify a settlement class and approve a settlement agreement. The District Court did so over the objections of some freelance authors. On appeal, the Second Circuit *sua sponte* raised the question whether §411(a) deprives federal courts of subject-matter jurisdiction over infringement claims involving unregistered copyrights, concluding that the District Court lacked jurisdiction to certify the class or approve the settlement.

Held: Section 411(a)’s registration requirement is a precondition to filing a copyright infringement claim. A copyright holder’s failure to comply with that requirement does not restrict a federal court’s subject-matter jurisdiction over infringement claims involving unregistered works. Pp. 5–16.

(a) “Jurisdiction” refers to “a court’s adjudicatory authority,” *Kontrick v. Ryan*, 540 U. S. 443, 455. Thus, “jurisdictional” properly applies only to “prescriptions delineating the classes of cases (subject-matter jurisdiction) and the persons (personal jurisdiction)” implicating that authority. *Ibid.* Because the distinction between jurisdictional conditions and claim-processing rules can be confusing in practice, federal courts and litigants should use the term “jurisdictional” only when it is apposite. *Ibid.* A statutory requirement is considered

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jurisdictional if Congress “clearly states that [it] count[s] as jurisdictional”; a condition “not rank[ed]” as such should be treated “as non-jurisdictional in character.” *Arbaugh v. Y & H Corp.*, 546 U. S. 500, 515–516. In *Arbaugh*, the Court held that the employee-numerosity coverage requirement of Title VII of the Civil Rights Act of 1964 was not a jurisdictional requirement because the provision did not “clearly stat[e]” that the numerosity rule counted as jurisdictional, this Court’s prior Title VII cases did not compel the conclusion that the rule nonetheless was jurisdictional, and the requirement’s location in a provision separate from Title VII’s jurisdiction-granting section indicated that Congress had not ranked the rule as jurisdictional. Pp. 5–7.

(b) Like the Title VII numerosity requirement in *Arbaugh*, §411(a) does not “clearly stat[e]” that its registration requirement is “jurisdictional.” 546 U. S., at 515. Although §411(a)’s last sentence contains the word “jurisdiction,” that sentence speaks to a court’s adjudicatory authority to determine a copyright claim’s registrability and says nothing about whether a federal court has subject-matter jurisdiction to adjudicate claims for infringement of unregistered works. Moreover, §411(a)’s registration requirement, like Title VII’s employee-numerosity requirement, is located in a provision “separate” from those granting federal courts subject-matter jurisdiction over those respective claims, *ibid.*, and no other factor suggests that §411(a)’s registration requirement can be read to “‘speak in jurisdictional terms or refer in any way to the jurisdiction of the district courts,’” *ibid.* This conclusion is not affected by the fact that the employee-numerosity requirement in *Arbaugh* was considered an element of a Title VII claim rather than a prerequisite to initiating a lawsuit. See *Zipes v. Trans World Airlines, Inc.*, 455 U. S. 385, 393. Pp. 7–11.

(c) A contrary result is not required by *Bowles v. Russell*, 551 U. S. 205. There, in finding that Congress had ranked as jurisdictional 28 U. S. C. §2107’s requirement that parties in a civil action file a notice of appeal within 30 days of the judgment, this Court analyzed §2107’s specific language and the historical treatment accorded to that type of limitation. That analysis is consistent with the *Arbaugh* framework because context is relevant to whether a statute “rank[s]” a requirement as jurisdictional. Pp. 11–14.

(d) The Court declines to apply judicial estoppel to affirm the Second Circuit’s judgment vacating the settlement. While some of petitioners’ arguments below are in tension with those made in this Court, accepting their arguments here does not create the type of “inconsistent court determinations” in their favor that estoppel is meant to address. See *New Hampshire v. Maine*, 532 U. S. 742. Pp. 14–15.

(e) Because §411(a) does not restrict a federal court’s subject-

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matter jurisdiction, this Court need not address the question whether the District Court had authority to approve the settlement under the Second Circuit's erroneous reading of §411. The Court also declines to decide whether §411(a)'s registration requirement is a mandatory precondition to suit that district courts may or should enforce *sua sponte* by dismissing copyright infringement claims involving unregistered works. Pp. 15–16.

509 F. 3d 116, reversed and remanded.

THOMAS, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, and ALITO, JJ., joined. GINSBURG, J., filed an opinion concurring in part and concurring in the judgment, in which STEVENS and BREYER, JJ., joined. SOTOMAYOR, J., took no part in the consideration or decision of the case.