



Websites and Mobile Applications of Places of Public Accommodation Must Be Accessible to the Visually Impaired Under the ADA

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In an opinion issued on January 15, 2019, the Ninth Circuit Court of Appeal held that websites and mobile applications used for ordering goods and services from a physical location deemed a “public accommodation” must be accessible to the blind and other visually-impaired individuals. In *Robles v. Domino’s Pizza*, the plaintiff—a blind man—alleged that Domino’s website and mobile app violated the ADA, because they could not be read by the plaintiff’s “screen-reading software, which vocalizes visual information on websites.”

The Ninth Circuit rejected Domino’s primary defense that neither Congress nor the Department of Justice had adopted sufficient statutory or regulatory provisions that would put Domino’s on notice as to what specific measures it needed to take to render its website and mobile applications compliant with the accessibility laws. In short, Domino’s claimed that imposing vague requirements on it without elaborating on technological details constituted a denial of due process. The Ninth Circuit reasoned that due process does not require precision in standards and only comes into play when no standards are provided at all. Emphasizing the ADA’s mandate that public accommodations provide the “full and equal enjoyment” of goods and services to the disabled, including “effective communication” through auxiliary aides for the sale of goods and services, the Ninth Circuit held that Domino’s did receive fair notice of an enforceable standard to which it was required to conform its online services.

In the wake of this decision, the general rule is that any public accommodation tied to a physical location offering goods and services online must implement the appropriate technology to allow the visually-impaired to use screen-reading software to vocalize the text in its website and mobile applications. This could prove to be an expensive proposition. The Ninth Circuit did not address whether a public accommodation may be excused from this requirement where implementation of the appropriate technology is cost-prohibitive. The Ninth Circuit noted that Domino’s did not make the argument that implementation of the technology would result in an “undue burden” excusing compliance.

While the Ninth Circuit acknowledged that Congress and the Department of Justice had not adopted specific technological standards, it recognized that private industry standards for websites do exist (particularly the Web Content Accessibility Guidelines or “WCAG”) and that public accommodations, although not required to do so, may seek to consult such private guidelines in an effort to comply with the ADA’s general mandate for accessibility.

Robles v. Domino’s Pizza, Ninth Circuit Court of Appeal Case No. 17-55504, filed January 15, 2019.

Should you have any questions, please contact [Doug Dennington](#).

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