

Declaration of Adam Ziegler Regarding Public Access to Caselaw

I, Adam Ziegler, declare as follows:

1. I am the Director of the Library Innovation Lab at the Harvard Law School Library. I have personal knowledge of the facts stated in this declaration and know them to be true and correct. I could competently testify to them if called as a witness. The statements in this declaration are my own and are not made on behalf of Harvard Law School or its affiliates.
2. I am passionate about making primary law broadly accessible to the public.

The Difficulty of Scanning and Publishing Official Caselaw

3. As part of my duties at the Harvard Law School Library, I helped lead a project that involved scanning case law from official reporters into a database, which is referred to as the Caselaw Access Project. This project is discussed in further detail in the amicus brief submitted on behalf of the project to the Supreme Court in the case *State of Georgia v. Public.Resource.Org, Inc.*, No.18-1150, and which is attached to this declaration as Exhibit A.
4. The Caselaw Access Project was difficult and time-consuming. One reason for this was that many sources of official caselaw contain annotations or other additional material provided by third party publishers, which are sometimes asserted to be protected by copyright. In order to make the text of official court decisions available publicly, we first had to remove or redact this additional material from the decisions. Doing so was difficult, expensive and time-consuming.

5. During the scanning phase of the project, our team at Harvard Law School scanned in all case law contained in reporters available through roughly the middle of 2018. Then, as part of the process of converting the scanned images to text data, our vendor removed or redacted information that we believed could have been added by third-party publishers. We took a broad approach with these redactions and as a result, in some instances, over-redacted material that had been prepared by the court or other government officials rather than by third-party publishers. While we eventually were able to make these cases available to the public, it was only through the investment of significant time and resources. Further, our project focused only on one source of primary law: court decisions. It did not focus on other sources of primary law or other edicts of government. To repeat this exercise again for other sources, or to continue to conduct this scanning-and-redaction process continuously to maintain an updated database of primary law, would be extremely expensive.

The Benefits of Making Caselaw Publicly Accessible

6. Making caselaw freely available to the public online has many important benefits which have been demonstrated even in the short period of time that the Caselaw Access Project has been operating. These include:

- a. Citizens, organizations and communities can more easily inform themselves of the law that binds them.
- b. Judges, lawyers and other court officials can better perform their functions as part of our judicial system.

- c. Students, teachers, scholars and researchers can more easily study the history, meaning and evolution of the law, including by using modern empirical and computational methods that require access to large amounts of data.
 - d. Entrepreneurs and other innovators can more easily develop new tools for searching, analyzing and use legal texts in order to better serve the legal community and to provide competitive alternatives to longstanding incumbents.
7. When caselaw is accessible only through books and through commercial databases, these benefits are diminished and, in some instances, eliminated entirely. It therefore is my view that all primary law should be freely accessible by the public online and that official sources of primary law should not be encumbered by any annotations or other materials prepared by third-party publishers in which copyright interests might be asserted. Including these materials in official sources of primary law has the clear practical effect of making it more difficult, more expensive and riskier for anyone to copy and publish the law.

I declare that the foregoing is true and correct.

Executed on 8/24/2021, 2021 in Westwood, Massachusetts.

DocuSigned by:

/s/ AD814596B7EE461

ADAM ZIEGLER