

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN EDUCATIONAL RESEARCH) ASSOCIATION, INC., AMERICAN) PSYCHOLOGICAL ASSOCIATION, INC.,) and NATIONAL COUNCIL ON) MEASUREMENT IN EDUCATION, INC.,))	Civil Action No. 1:14-cv-00857-TSC-DAR
<i>Plaintiffs/Counterclaim-Defendants,</i>))	JOINT STATUS REPORT
v.))	
PUBLIC.RESOURCE.ORG, INC.,))	
<i>Defendant/Counterclaim-Plaintiff.</i>))	

Plaintiffs, American Educational Research Association, Inc. (“AERA”), American Psychological Association, Inc. (“APA”) and National Council on Measurement in Education, Inc. (“NCME”) (collectively, “Plaintiffs”) and Defendant, Public.Resource.Org, Inc. (“Defendant”), by and through undersigned counsel, and pursuant to the Court’s February 13, 2017 Minute Order (the “Minute Order”), submit the following Joint Status Report, addressing the two questions identified by the Court in the Minute Order.

Defendant’s Compliance with the Court’s February 2, 2017 Order

On February 2, 2017, this Court entered an Order granting in part and denying in part Plaintiffs’ Motion for Summary Judgment. [Dkt. 118 (the “Order”)]. Specifically, the Court directed that:

It is hereby ORDERED that Defendant is permanently enjoined from all unauthorized use, including through reproduction, display, distribution, or creation of derivative works, of the Standards for Educational and Psychological Testing, 1999 edition.

Defendant is FURTHER ORDERED to remove all versions of this standard from its website and any other website within its possession, custody, or control within five days.

[Dkt. 118; *see also* Dkt. 117 at 40 (holding Plaintiffs' copyright valid and directly infringed)]. Defendant certifies that it has complied with the Court's Order and has removed all versions of the 1999 Standard from its website and any other website within its possession, custody, or control.

Proposed Schedule For This Action

As the Court is aware, the Court's Order only granted in part Plaintiffs' Motion for Summary Judgment and did not dispose of all claims in this action, leaving open Count 2 (contributory infringement) and Defendant's Counterclaim for a declaration of no liability. However, on February 17, 2017, Defendant filed a Notice of Appeal, appealing those holdings the Court did make in the Order. [Dkt. 120]. Since the filing of the appeal, the Parties have met and conferred and have agreed that a stay of this action, pending the resolution of Defendant's appeal, is the best way to ensure orderly and efficient litigation of this action. Indeed, absent a stay in this case, the parties will engage in protracted litigation in this Court that may be substantially affected by the D.C. Circuit's review of the Court's Order. Plaintiffs' second claim of contributory infringement and Defendant's counterclaim for declaratory relief necessarily involve factual and legal findings that are the same as those Defendant is expected to challenge on appeal, namely the Court's finding that Plaintiffs' copyright is valid and Defendant's posting of Plaintiffs' work to the internet was not fair use. Thus, in the interests of efficiency and avoiding unnecessary expenditure of resources by the Parties and the Court, the Parties respectfully request that the Court enter an order staying the proceedings pending resolution of Defendant's appeal. An appropriate Stipulated Motion is being submitted herewith.

(Signatures on next page)

Respectfully submitted,

/s/ Jonathan Hudis

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Dated: March 3, 2017