

**IN THE 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.,)

Plaintiffs/Counterclaim Defendants,)

v.)

PUBLIC.RESOURCE.ORG, INC.,)

Defendant/Counterclaimant.)

Civil Action No. 1:14-cv-00857-TSC-DAR

**REPLY DECLARATION OF
JONATHAN HUDIS IN FURTHER
SUPPORT OF PLAINTIFFS’
AMENDED MOTION TO COMPEL
DISCOVERY, PRIVILEGE LOG, AND
FURTHER INITIAL DISCLOSURES**

I, JONATHAN HUDIS, declare:

1. I am a partner with Oblon, Spivak, McClelland, Maier & Neustadt, LLP, counsel to Plaintiffs, AMERICAN EDUCATIONAL RESEARCH ASSOCIATION, INC. (“AERA”), AMERICAN PSYCHOLOGICAL ASSOCIATION, INC. (“APA”) and NATIONAL COUNCIL ON MEASUREMENT IN EDUCATION, INC. (“NCME”) (collectively, “Plaintiffs”) in the captioned action. I submit this Reply Declaration in further support of Plaintiffs’ Amended Motion to compel discovery, privilege log, and for further initial disclosures from Defendant.

2. The parties’ counsel had their meet-and-confer telephone conference pursuant to Fed. R. Civ. P. 26(f) on September 25, 2014.

3. The Court’s Scheduling Order [Dkt. No. 22] has set the close of fact discovery for March 16, 2015.

4. Accompanying this Declaration as Exhibit S is a true copy of Defendant’s Amended Objections and Responses to Plaintiffs’ First Set of Interrogatories, served on December 15, 2014.

5. Accompanying this Declaration as Exhibit T is a true copy of Defendant's Amended Objections and Responses to Plaintiffs' First Production Requests, served on December 15, 2014.

6. Accompanying this Declaration as Exhibit U is a true copy of the title page, table of contents, and chapter 1.4 – "Overall Operation" of the RFC 2616 – Hypertext Transfer Protocol – HTTP/1.1 available at <https://tools.ietf.org/html/rfc2616#section1.4>, which was last accessed on January 8, 2015.

7. Accompanying this Declaration as Exhibit V is a true copy of the article "Understanding the FTP Protocol" by Don Parker published on windowsnetworking.com on September 8, 2006.

8. Accompanying this Declaration as Exhibit W is a true copy of "The Rsync Algorithm" by Andrew Tridgell and Paul Mackerras, published in the Australian National University Joint Computer Science Technical Report Series in June 1996.

9. Accompanying this Declaration as Exhibit X is a true copy of a letter dated December 18, 2014 from me and my partner, Kathleen Cooney-Porter, to Andrew Bridges, Defendant's counsel.

10. Accompanying this Declaration as Exhibit Y is a true copy of a letter dated December 30, 2014 from me and my partner, Kathleen Cooney-Porter, to Andrew Bridges, Defendant's counsel.

11. Accompanying this Declaration as Exhibit Z is a true copy of a letter dated December 22, 2014 from Andrew Bridges, Defendant's counsel.

12. Accompanying this Declaration as Exhibit AA is a true copy of a portion of a spreadsheet produced by Defendants at PROAERA_00000827.

13. Accompanying this Declaration as Exhibit BB is a true copy of the e-mail correspondence sent from John Neikirk, Director of Publications at AERA, to Carl Malamud on December 16, 2013 produced by Defendants at PROAERA_00000806.

14. Accompanying this Declaration as Exhibit CC is a true copy of the letter sent from Carl Malamud to John Neikirk on December 19, 2013 produced by Defendants at PROAERA_00000808-PROAERA_00000809.

15. Accompanying this Declaration as Exhibit DD is a true copy of a list of the beginning and ending Bates Numbers of the 78 documents produced by Public Resource on December 29, 2014.

16. The parties' counsel, on November 20, 2014, participated in a telephone conference to discuss outstanding discovery issues. I and Kathleen Cooney-Porter participated on behalf of Plaintiffs. Andrew Bridges participated on behalf of Defendant. During this conversation, Mr. Bridges never indicated when amended discovery responses, if any, would be forthcoming or when discovery documents would be produced.

17. The parties' counsel, on December 15, 2014, participated in a telephone conference to discuss outstanding discovery issues. I and Kathleen Cooney-Porter participated on behalf of Plaintiffs. Mitchell Stoltz and Corynne McSherry participated on behalf of Defendant. During this conversation, neither Mr. Stoltz nor Ms. McSherry ever stated when amended discovery responses, if any, would be forthcoming or when discovery documents would be produced

18. Accompanying this Declaration as Exhibit EE is a true copy of an e-mail from me and my partner, Kathleen Cooney-Porter, to Mitchell Stoltz and Corynne McSherry, Defendant's counsel, sent on December 15, 2014.

19. Plaintiffs received Defendant's document production on December 29, 2014.

Dated: January 12, 2015

/s/ Jonathan Hudis

Jonathan Hudis

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