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**No. 22-7063**

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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**AMERICAN SOCIETY FOR TESTING AND MATERIALS; NATIONAL FIRE  
PROTECTION ASSOCIATION, INC.; AND AMERICAN SOCIETY OF HEATING,  
REFRIGERATING, AND AIR CONDITIONING ENGINEERS, INC.,  
*Appellants,***

v.

**PUBLIC.RESOURCE.ORG, INC.,  
*Appellee.***

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*Appeal from the United States District Court for the District of  
Columbia, Hon. Tanya S. Chutkan, No. 1:13-cv-1215-TSC*

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**MOTION TO EXTEND DEADLINE FOR COPYRIGHT ALLIANCE  
TO FILE AMICUS CURIAE BRIEF**

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**October 7, 2022**

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Pursuant to Rule 27 of the Federal Rules of Appellate Procedure and Circuit Rule 27, the Copyright Alliance respectfully requests a modification of the briefing schedule so that it may have an additional two weeks, beyond the current deadline, within which to file an amicus curiae brief in support of Plaintiffs.

- Plaintiffs-Appellants filed their opening brief on September 16, 2022;
- Amicus briefs in support of Plaintiffs currently are due October 14, 2022;
- Appellee Public.Resource.Org's answering brief currently is due November 14, 2022;
- Amicus briefs in support of Public.Resource.Org currently are due December 12, 2022;
- Plaintiffs' reply brief currently is due January 13, 2023.

Plaintiffs agree to this request. Public.Resource.Org takes no position on this request, but will not oppose it.

### **PROCEDURAL BACKGROUND**

Plaintiffs filed this action in 2013, alleging copyright and trademark infringement arising out of PublicResource.Org's verbatim

copying and internet posting and distribution of Plaintiffs' copyrighted works and utilization of their trademarks.

This case was previously before this Court in No. 17-7035. Numerous amici filed briefs in that appeal, including several dozen organizations and individuals supporting Public.Resource.Org. The Copyright Alliance did not participate.

This Court remanded for further proceedings in a published opinion. *Am. Soc'y for Testing & Materials v. Public.Resource.Org, Inc.*, 896 F.3d 437, 449 (D.C. Cir. 2018). On remand, the district court granted summary judgment largely in favor of Public.Resource.Org. Plaintiffs appealed.

The parties asked this Court to set a briefing schedule on June 29, 2022. That schedule was modeled on the schedule that Public.Resource.Org requested in the prior appeal. (No. 17-7035, filed June 6, 2017). Both motions recognized that it was important for amici with an interest in this lawsuit to have the opportunity to file amicus briefs. This Court granted the requested schedules.

## REASONS FOR REQUESTED RELIEF

The Copyright Alliance requests a two-week extension for the filing of its amicus brief to provide its counsel with sufficient time to prepare the brief. The requested extension will not prejudice to Public.Resource.Org and will allow the Copyright Alliance to submit its amicus brief, which will discuss legislative developments that the Copyright Alliance believes are relevant to the issues in this appeal.

The Copyright Alliance makes this request because it only recently retained counsel to prepare this amicus brief. Counsel requires additional time due to existing matters and imminent briefing deadlines.

The requested extension is short, two weeks from the current deadline of October 14, 2022. While Plaintiffs have indicated they would join in a motion to extend the date for subsequent briefs to accommodate this request, even without an extension Public.Resource.Org will still have 17 days to make any points it wishes to make in response to the Copyright Alliance's brief and to complete its brief (which it will have been preparing at least since September 16).

The requested extension will not prejudice any amici supporting Public.Resource.Org. They still will have well over a month to prepare any points they may have in response to the Copyright Alliance's brief.

The issue on appeal is important and merits full briefing and input from interested stakeholders. The Copyright Alliance has an interest in this proceeding on behalf of the broader constituency of copyright owners that is not represented by any other amici. The Copyright Alliance plans to submit an amicus brief that addresses pending legislation regarding copyrighted works that are incorporated by reference into law. Copyright Alliance seeks an extension to bring this legislation to the Court's attention and explaining the role of Congress in setting the scope of copyright protection and policy, rather than policy decision being enacted through the affirmative defense of fair use.

## **CONCLUSION**

For these reasons, the Copyright Alliance respectfully requests the Court grant a two-week extension to its deadline to file a brief, until October 28, 2022.

Dated: October 7,  
2022

Respectfully submitted,

/s/Brian A. Coleman

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## **CERTIFICATE OF COMPLIANCE**

I hereby certify that this motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2) because this motion contains 623 words. I further certify that this motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6).

**CERTIFICATE OF SERVICE**

I hereby certify that service of the foregoing will be made on October 7, 2022 through the D.C. Circuit CM/ECF system, which will serve counsel of record registered as CM/ECF users as follows:

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