

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

AMERICAN SOCIETY FOR TESTING AND
MATERIALS d/b/a ASTM INTERNATIONAL;

NATIONAL FIRE PROTECTION
ASSOCIATION, INC.; and

AMERICAN SOCIETY OF HEATING,
REFRIGERATING, AND AIR CONDITIONING
ENGINEERS,

Plaintiffs/Counter-defendants,

v.

PUBLIC.RESOURCE.ORG, INC.,

Defendant/Counterclaimant.

Case No. 1:13-cv-01215-TSC

**DEFENDANT-COUNTERCLAIMANT PUBLIC RESOURCE ORG., INC.'S
CONSOLIDATED INDEX OF EXHIBITS IN OPPOSITION TO [198] PLAINTIFFS'
MOTION FOR SUMMARY JUDGMENT AND PERMANENT INJUNCTION AND IN
SUPPORT OF DEFENDANT PUBLIC RESOURCE'S SECOND MOTION FOR
SUMMARY JUDGMENT**

Defendant-Counterclaimant Public.Resource.Org, Inc. (“Defendant”) submits the following Consolidated Index of Exhibits in Opposition to [198] Plaintiffs’ Motion for Summary Judgment and Permanent Injunction and in Support of Defendant’s Second Motion for Summary Judgment:

Exh. No.	Document Title
1	John Markoff, “Turning the Desktop PC Into a Talk Radio Medium,” New York Times, March 4, 1993
2	John Markoff, “Plan Opens More Data To Public,” New York Times, October 22, 1993
3	Correspondence from the Securities and Exchange Commission on August 31, 1995 , stating in part: “Looking forward to your support as we continue down the road you’ve paved.” Service available at https://www.sec.gov/edgar.shtml .
4	John Schwartz, “Superhighway Routed Through Capitol Hill,” Washington Post, September 9, 1994
5	Correspondence from Senator Connie Mack on June 16, 1995, concerning the first congressional hearing on Internet.
6	Katie Hafner, “The Man With Ideas: The Robert Moses of Cyberspace Plans a 1996 World’s Fair,” Newsweek, July 24, 1995.
7	“Foreword by His Holiness the Dalai Lama,” A World’s Fair for the Information Age, MIT Press (1997).
8	John Schwartz, “Ideas Whose Time for Free Access Has Come,” Washington Post, June 29, 1998.
9	John Markoff, “U.S. to Release Patent Data On a World Wide Web Site,” New York Times, June 25, 1998.
10	Correspondence from the Public Printer of the United States on July 27, 2006.
11	Correspondence from Hon. Nancy Pelosi, the Speaker of the House of Representatives, on April 17, 2008, supporting “FedFlix” initiative.
12	James Fallows, “Another Win for Carl Malamud,” Atlantic Monthly, March 9, 2007.

Exh. No.	Document Title
13	Correspondence from Speaker Boehner and Chairman Issa on January 5, 2011.
14	Remarks of Congressman Issa titled "Commemorating the Tenth Anniversary of Public.Resource.Org," Congressional Record, Page E285, March 7, 2017.
15	Suzanne Perry, "IRS Plans to Begin Releasing Electronic Nonprofit Tax Forms Next Year," Chronicle of Philanthropy, June 30, 2015.
16	Robert Ambrogi, "1.8M Pages of Federal Case Law To Go Public," Law Sites, November 14, 2007.
17	Correspondence from the Hon. Lee H. Rosenthal, Chair of the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, on July 16, 2008
18	Correspondence from Chief Judge Royce C. Lamberth, U.S. District Court for the District of Columbia, on January 28, 2009.
19	Correspondence from U.S. Senator Joseph I. Lieberman to Hon. Lee H. Rosenthal, on February 27, 2009.
20	Prepared statement by Carl Malamud before the U.S. Court of Appeals for the Ninth Circuit on June 23, 2010.
21	Submission by Carl Malamud to the Presidential Transition Effort ("Change.Gov"), titled "Federal Register 2.0," on January 5, 2009.
22	Correspondence from the Hon. David Ferriero, Archivist of the United States to me, on April 2, 2019.
23	Prepared statement by Carl Malamud before the Oregon State Legislature Legislative Counsel Committee on June 19, 2008.
24	The Editorial Board, "The Law©?," New York Times, June 25, 2019.
25	"Notice of Incorporation," dated March 15, 2012.
26	Carl Malamud Response to SMACNA, on January 11, 2013.
27	Response to SMACNA, on January 11, 2013.
28	ANSI website, titled "ANSI Launches Online Portal for Standards Incorporated by Reference," dated October 28, 2013.

Exh. No.	Document Title
29	Prepared remarks by Carl Malamud before the ABA House of Delegates on August 9, 2016.
30	Lorelei Laird, "After debate, ABA House calls for publication of privately drafted standards used in legislation," ABA Journal, August 9, 2016.
31	Hon. David Ferriero, "Federal Register 2.0," The White House Blog, July 26, 2010.
32	History of the Federal Register, March 14, 2006.
33	Cornell Legal Information Institute, "Worth A Thousand Words: We're Upping Our Game for Images," April 4, 2019.
34	Email correspondence on March 1, 2016, with Amy Bunk, Director of Legal Affairs and Policy at the Office of the Federal Register.
35	John Adams' "Dissertation on the Canon and Feudal Law."
36	Deposition of Mia D. Marvelli, dated August 19, 2019.
37	Deposition of Mary H. Saunders, dated August 15, 2019.
38	Deposition of Plaintiffs' expert, John Jarosz, dated August 27, 2015.
39	Deposition of Public Resource's expert, James Fruchterman, dated July 31, 2015.
40	Deposition of Daniel Smith, one of ASTM's Rule 30(b)(6) designees, dated July 24, 2015.
41	Deposition of Christian Dubay, one of NFPA's Rule 30(b)(6) designees, dated April 1, 2015
42	SEALED Deposition of Bruce Mullen, one of NFPA's Rule 30(b)(6) designees, dated March 31, 2015.
43	Deposition of Stephanie Reiniche, one of ASHRAE's Rule 30(b)(6) designees, dated March 30, 2015.
44	Deposition of Steven Comstock, one of ASHRAE's Rule 30(b)(6) designees, dated March 5, 2015.

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45	Deposition of Jeffrey Grove, one of ASTM's Rule 30(b)(6) designees, dated March 4, 2015.
46	SEALED Deposition of Donald Bliss, one of NFPA's Rule 30(b)(6) designees, dated March 3, 2015.
47	SEALED Deposition of Carl Malamud, dated February 27, 2015.
48	Deposition of Carl Malamud as Rule 30(b)(6) designee for Public Resource, dated February 26, 2015.
49	Deposition of Vikas Bhutada, Rule 30(b)(6) designee for third party HTC Global Services, dated November 5, 2014.
50	Deposition of Rebecca Malamud, Rule 30(b)(6) designee for third party Point B Studio, dated November 13, 2014.
51	ASHRAE Interrogatories 2019
52	NFPA Interrogatories 2019
53	ASTM Second Amended Interrogatories 2019
54	ASTM Interrogatories 2014
55	SEALED ASHRAE Financials 2016-17
56	SEALED ASHRAE Financials 2017-18
57	SEALED Exhibit 5 from the deposition of Mary Saunders.
58	Exhibit 9 from the deposition of Mary Saunders.
59	SEALED Exhibit 10 from the deposition of Mary Saunders.
60	Exhibit 11 from the deposition of Mary Saunders.
61	SEALED Exhibit 13 from the deposition of Mary Saunders.
62	SEALED Exhibit 14 from the deposition of Mary Saunders.
63	SEALED Exhibit 21 from the deposition of Mary Saunders.

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64	SEALED Exhibit 23 from the deposition of Mary Saunders
65	SEALED Exhibit 24 from the deposition of Mary Saunders.
66	SEALED Exhibit 25 from the deposition of Mary Saunders.
67	SEALED Exhibit 26 from the deposition of Mary Saunders.
68	SEALED Exhibit 28 from the deposition of Mary Saunders.
69	SEALED Exhibit 37 from the deposition of Mary Saunders.
70	SEALED Exhibit 43 from the deposition of Mary Saunders.
71	SEALED Exhibit 46 from the deposition of Mary Saunders.
72	SEALED December 31, 2015 and 2014 National Fire Protection Association Financial Statements, produced as begin Bates reference NFPA-PR0097912.
73	SEALED December 31, 2016 and 2015 National Fire Protection Association Financial Statements, produced as begin Bates reference NFPA-PR0097936.
74	SEALED December 31, 2017 and 2016 National Fire Protection Association Financial Statements, produced as begin Bates reference NFPA-PR0097961.
75	SEALED December 31, 2018 and 2017 National Fire Protection Association Financial Statements, produced as begin Bates reference NFPA-PR0097987.
76	NFPA income statement, produced as begin Bates reference NFPA-PR0098016.
77	SEALED Code and Standard Units Sold, produced as begin Bates reference NFPA-PR0098022.
78	SEALED Page view and sales information, produced as begin Bates reference NFPA-PR0098023.
79	SEALED NFPA Publication sales 2009-2013, produced as begin Bates reference NFPA-PR0098028.
80	SEALED NFPA Publication sales 2014-2018, produced as begin Bates reference NFPA-PR0098029.

Exh. No.	Document Title
81	SEALED Email produced as begin Bates reference NFPA-PR0098030.
82	NEC adoption maps, produced as begin Bates reference NFPA-PR0098046.
83	CodeFinder Tool Disclaimer, produced as begin Bates reference NFPA-PR0098059.
84	Exhibit 3 from the deposition of Mia Marvelli.
85	Exhibit 4 from the deposition of Mia Marvelli.
86	Exhibit 7 from the deposition of Mia Marvelli.
87	Exhibit 8 from the deposition of Mia Marvelli.
88	Exhibit 9 from the deposition of Mia Marvelli.
89	Table of the ASHRAE standards at issue in this case.
90	Table of the ASTM standards at issue in this case.
91	Table of the NFPA standards at issue in this case.
92	Printout from the National Archives website, titled "Incorporation by Reference", available at http://www.archives.gov/federal-register/cfr/ibr-locations.html .
93	Declaration in Support of Probable Cause, <i>California v. Harris</i> , No. 17-CR-017349A (Cal. Super. Ct. June 5, 2017), available at https://www.scribd.com/document/350446988/Ghost-Ship-fire-criminal-charges .
94	Criminal Complaint, <i>California v. Harris</i> , No. 17-CR-017349A (Cal. Super. Ct. June 5, 2017), available at https://web.archive.org/web/20170729051241/https://cbssanfran.files.wordpress.com/2017/06/almena-and-harris-complaint.pdf .)
95	SEALED Exhibit 1056 to the deposition of Jeffrey Grove.
96	SEALED Exhibit 1033 to the deposition of Jeffrey Grove.
97	SEALED Exhibit 1033 to the deposition of Jeffrey Grove.

Dated: November 12, 2019

Respectfully submitted,

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