

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

<p>AMERICAN SOCIETY FOR TESTING AND MATERIALS d/b/a/ ASTM INTERNATIONAL;</p> <p>NATIONAL FIRE PROTECTION ASSOCIATION, INC.; and</p> <p>AMERICAN SOCIETY OF HEATING, REFRIGERATING, AND AIR CONDITIONING ENGINEERS,</p> <p style="text-align: center;">Plaintiffs/ Counter-Defendants,</p> <p>v.</p> <p>PUBLIC.RESOURCE.ORG, INC.,</p> <p style="text-align: center;">Defendant/ Counter-Plaintiff.</p>	<p style="text-align: center;">Case No. 1:13-cv-01215-TSC</p>
--	---

**JOINT STATUS REPORT**

Plaintiffs and Defendant (“Defendant” or “Public Resource”) jointly submit this status report pursuant to the Court’s February 2, 2017 Minute Order.

Following the Court’s Order granting Plaintiffs’ motion for summary judgment and permanent injunction and denying Defendant’s cross-motion for summary judgment (hereinafter “Order”) (Dkt. No. 176), Public Resource has removed from its website all standards published by Plaintiffs. Public Resource had previously removed from its website all of the standards at issue in the complaint subsequent to the November 4, 2015 status conference before this Court.

On February 15, 2017, Public Resource filed its notice of appeal of the Order (Dkt. No. 177).

The Parties hereby stipulate that, unless and until the Order is reversed, vacated, or materially modified beyond the modification proposed in this Joint Status Report on appeal or

otherwise, (a) Public Resource will not reproduce, display, distribute, or create any derivative works consisting substantially of any standard published by Plaintiffs (whether published prior to or after the entry of the Order), and (b) Plaintiffs will hold in abeyance any further proceedings regarding any of their other copyright works during the pendency of Public Resource's appeal to the Court of Appeals.

In accordance with the provisions of Federal Rule of Civil Procedure 54(d) and Local Civil Rule 54.2, the Parties stipulate that the time for proceedings to commence on any motion for attorney's fees and/or costs in this case shall be after the entry of final judgment on all claims rather than the Order.

Finally, the Court's February 2, 2017 Order permanently enjoined Public Resource from "all unauthorized use of Plaintiff's registered trademarks." The Parties stipulate, and respectfully request, that the Court should modify the Order so that the last sentence of the second paragraph states that:

"It is FURTHER ORDERED that Defendant is permanently enjoined from all unauthorized use of Plaintiffs' registered trademarks, provided that nothing in this injunction is intended to or does apply to (a) Defendant's use of Plaintiffs' names or logos in those documents that have been filed publicly in this action and that Defendant has posted to its website; (b) Defendant's posting or other use of letters that Plaintiffs themselves have sent to Defendant, governmental agencies, or third parties and that include Plaintiffs' names or logos; (c) Defendant's use of Plaintiffs' names or the names of their standards in tables that Defendant has posted to its website to indicate jurisdictions that have incorporated such standards by reference; or (d) Defendant's reference to Plaintiffs' names or the names of their standards in Defendant's critical commentary and political speech, subject to the limitation that this does not

permit Public Resource to display on its website Plaintiffs' registered trademarks in versions of the standards that Plaintiffs publish. Moreover, this injunction does not apply to third-party standards posted by Public Resource that merely reference Plaintiffs or Plaintiffs' works without reproducing Plaintiffs' works in whole or substantial part. *See, e.g.*, the California Building Code 2010, California Code of Regulations Title 24, Part 2, Volume 1 (<https://law.resource.org/pub/us/code/bsc.ca.gov/gov.ca.bsc.2010.02.1.pdf>) at page 27, Section 110.3.1 ("Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.")"

In proposing the stipulated modification to the Order in the preceding paragraph, Public Resource reserves and does not waive its argument that its posting of Plaintiffs' standards constitutes political speech, and Plaintiffs reserve and do not waive their argument that Public Resource's posting of their standards does not constitute political speech.

Dated: February 17, 2017

Respectfully submitted,

/s/ Jordana Rubel

J. Kevin Fee (D.C. Bar: 494016)  
Jordana S. Rubel (D.C. Bar: 988423)  
Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Ave., N.W.  
Washington, D.C. 20004  
Telephone: 202.739.5215  
Email: jkfee@morganlewis.com  
jrubel@morganlewis.com

*Counsel For American Society For Testing And Materials  
d/b/a/ ASTM International*

/s/ Kelly M. Klaus

Kelly M. Klaus  
Rose L. Ehler  
Munger, Tolles & Olson LLP  
560 Mission St., 27th Floor  
San Francisco, CA 94105  
Tel: 415.512.4000  
Email: Kelly.Klaus@mto.com  
Rose.Ehler@mto.com

*Counsel for National Fire Protection Association, Inc.*

/s/ J. Blake Cunningham

Jeffrey S. Bucholtz (D.C. Bar: 452385)  
King & Spalding LLP  
1700 Pennsylvania Avenue, NW, Ste. 200  
Washington, DC 20006-4707  
Tel: 202.737.0500  
Email: jbucholtz@kslaw.com

Kenneth L. Steinthal  
Joseph R. Wetzel  
J. Blake Cunningham  
King & Spalding LLP  
101 Second Street, Ste. 2300  
San Francisco, CA 94105  
Tel: 415.318.1211  
Email: ksteinthal@kslaw.com  
jwetzel@kslaw.com  
bcunningham@kslaw.com

*Counsel for American Society of Heating, Refrigerating,  
and Air Conditioning Engineers*

/s/ Matthew B. Becker

Andrew P. Bridges  
Matthew B. Becker  
Fenwick & West LLP  
555 California Street, 12th Floor  
San Francisco, CA 94104  
Tel: 415.875.2300  
Email: abridges@fenwick.com  
mbecker@fenwick.com

David Halperin  
1530 P Street, NW  
Washington DC 20005  
Tel: 202.905.3434  
Email: davidhalperindc@gmail.com

Corynne McSherry  
Mitchell Stoltz  
Electronic Frontier Foundation  
815 Eddy Street  
San Francisco, CA 94109  
Tel: 415.436.9333  
Email: corynne@eff.org  
mitch@eff.org

*Counsel for Public.Resource.Org, Inc.*