

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CODE REVISION COMMISSION on
behalf of and for the benefit of THE
GENERAL ASSEMBLY OF
GEORGIA, and THE STATE OF
GEORGIA,

Plaintiff,

v.

PUBLIC.RESOURCE.ORG, INC.

Defendant.

CIVIL ACTION NO.

1:15-CV-02594-MHC

**PLAINTIFF COMMISSION'S RESPONSE TO DEFENDANT
PUBLIC.RESOURCE.ORG, INC.'S FIRST REQUESTS FOR
PRODUCTION OF DOCUMENTS**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Northern District of Georgia, Plaintiff Code Revision Commission on Behalf of and For the Benefit of the General Assembly of Georgia and the State of Georgia ("Commission"), by and through its attorneys, hereby objects and responds to Defendant Public.Resource.Org, Inc. ("Public Resource")'s First Requests for Production of Documents to Plaintiff Code Revision Commission as follows.

INTRODUCTION

The Commission objects to Public Resource's requests for production of documents to the extent they request production of documents subject to the attorney-client privilege or work product doctrine. The Commission is not producing documents and does not expect Public Resource to produce documents concerning correspondence between the parties and their counsel based on claims of privilege or work product.

REQUEST NO. 1: *Documents establishing ownership, title, assignment or licensing of the copyright of any portion of the O.C.G.A. or the annotations thereof, including, but not limited to, the certificates of registration from the U.S. Copyright Office, assignment agreements, and license agreements.*

RESPONSE: Commission objects to Public Resource's definition of the term "documents" to the extent that it encompasses e-mail correspondence. Public Resource has not propounded specific discovery requests for e-mails as required by and stipulated to in the Joint Preliminary Report and Discovery Plan. (Dkt. No. 012, Item No. 11(b)(1)) Commission also objects to Public Resource's definition of "O.C.G.A." as unclear and misleading because Public Resource separately lists "annotations" and certain portions of the O.C.G.A. that are encompassed by the term "annotations," but not other portions of the O.C.G.A. encompassed by the

term. Specifically, notes on law review articles, editorial notes, Commission notes, summaries of opinions of the Attorney General, indexes, analyses, title, chapter, article, part, and subpart captions or headings, and catchlines of Code sections are all annotations of the official code of Georgia, but listed as separate from “annotations.” Judicial summaries and summaries of research references are not listed despite also being Official Code Georgia Annotations. Accordingly, in its response, Commission defines “O.C.G.A.” as “a publication containing the official code of Georgia and annotations to the official code,” wherein “annotations” refers to all non-statutory elements of the publication. Commission further objects to this request because it is not limited to a relevant time period and therefore is unduly burdensome, and seeks copyright registration and application information not relevant to the claims or defenses of the parties.

Subject to and without waiving these objections, Commission previously produced documents COMM000001 and COMM000042 and further produces herewith COMM000190; COMM000192; COMM000194; COMM000196; COMM000198; COMM000200; COMM000202; COMM000204; COMM000206; COMM000208; COMM000210; COMM000212; COMM000214; COMM000216; COMM000218; COMM000220; COMM000222; COMM000224; COMM000226; and COMM000227.

Commission will produce additional relevant and non-privileged, responsive documents to the extent such documents exist and can be located after additional reasonable searches. Any additional documents will be produced within six weeks of the date specified by Public Resource in its First Requests for Production of Documents. This time period is reasonable as it gives Commission one week from the end of the current legislative session to produce the additional documents.

At this time, Commission is not producing copyright applications duplicative of copyright registrations produced herewith and copyright applications and registrations that are not a subject of this litigation. Commission reserves the right to amend its statements in this regard when and if additional documents are located.

REQUEST NO. 2: *Any applications or other filings made on behalf of the State of Georgia with any federal governmental agency for registration of the copyright of any portion of the O.C.G.A. or the annotations, thereof.*

RESPONSE: Commission objects to Public Resource's definition of "O.C.G.A." as unclear and misleading because Public Resource separately lists "annotations" and certain portions of the O.C.G.A. that are encompassed by the term "annotations," but not other portions of the O.C.G.A. encompassed by the term. Specifically, notes on law review articles, editorial notes, Commission notes,

summaries of opinions of the Attorney General, indexes, analyses, title, chapter, article, part, and subpart captions or headings, and catchlines of Code sections are all annotations of the official code of Georgia, but listed as separate from “annotations.” Judicial summaries and summaries of research references are not listed despite also being Official Code of Georgia Annotations. Accordingly, in its response, Commission defines “O.C.G.A.” as “a publication containing the official code of Georgia and annotations to the official code,” wherein “annotations” refers to all non-statutory elements of the publication. Commission also objects to this request to the extent to which it is duplicative of Request No. 1. Commission further objects to this request because it is not limited to a relevant time period and encompasses applications for copyright that correspond to registrations for copyright already being produced herewith, and therefore, is unduly burdensome, and seeks copyright application information not relevant to the claims or defenses of the parties.

Subject to and without waving these objections, Commission produces herewith the following documents: COMM000190; COMM000192; COMM000194; COMM000196; COMM000198; COMM000200; COMM000202; COMM000204; COMM000206; COMM000208; COMM000210; COMM000212; COMM000214; COMM000216; COMM000218; COMM000220; COMM000222; COMM000224; COMM000226; and COMM000227.

At this time, Commission is not producing copyright applications that are not a subject of this litigation nor is it producing copyright applications that correspond to registrations for copyright already being produced herewith. Commission reserves the right to amend its statements in this regard when and if additional documents are located.

REQUEST NO. 3: *Documents relating to any communications between the Commission, the State or those acting on its behalf and any federal governmental agency regarding the registration of the copyright of any portion of the O.C.G.A. or the annotations thereof.*

RESPONSE: Commission objects to Public Resource's definition of the term "documents" to the extent that it encompasses e-mail correspondence. Public Resource has not propounded specific discovery requests for e-mails as required by and stipulated to in the Joint Preliminary Report and Discovery Plan. (Dkt. No. 012, Item No. 11(b)(1)) Commission further objects to Public Resource's definition of "O.C.G.A." as unclear and misleading because Public Resource separately lists "annotations" and certain portions of the O.C.G.A. that are encompassed by the term "annotations," but not other portions of the O.C.G.A. encompassed by the term. Specifically, notes on law review articles, editorial notes, Commission notes, summaries of opinions of the Attorney General, indexes,

analyses, title, chapter, article, part, and subpart captions or headings, and catchlines of Code sections are all annotations of the official code of Georgia, but listed as separate from “annotations.” Judicial summaries and summaries of research references are not listed despite also being Official Code of Georgia Annotations. Accordingly, in its response, Commission defines “O.C.G.A.” as “a publication containing the official code of Georgia and annotations to the official code,” wherein “annotations” refers to all non-statutory elements of the publication. Commission also objects to this request to the extent to which the term “any communications” makes this request duplicative of Request Nos. 1, 2, and 4.

Documents responsive to this request are being produced in response to requests no. 1, 2 and 4. No further documents are responsive to this request. Any additional relevant and non-privileged documents will be produced within six weeks of the date specified by Public Resource in its First Requests for Production of Documents. This time period is reasonable as it gives Commission one week from the end of the current legislative session to produce the additional documents.

REQUEST NO. 4: *Documents relating to any communications on behalf of the State of Georgia, the legislature, or the Commission regarding the scope of copyright claimed in any portion of the O.C.G.A.*

RESPONSE: Commission objects to Public Resource’s definition of the term “documents” to the extent that it encompasses e-mail correspondence. Public Resource has not propounded specific discovery requests for e-mails as required by and stipulated to in the Joint Preliminary Report and Discovery Plan. (Dkt. No. 012, Item No. 11(b)(1)) Commission also objects to Public Resource’s definition of the term “Commission” as overly broad and unduly burdensome. Commission’s responses will be made only on behalf of the Code Revision Commission on behalf of and for the benefit of the General Assembly of Georgia, and the State of Georgia. Commission further objects to Public Resource’s definition of “O.C.G.A.” as unclear and misleading because Public Resource separately lists “annotations” and certain portions of the O.C.G.A. that are encompassed by the term “annotations,” but not other portions of the O.C.G.A. encompassed by the term. Specifically, notes on law review articles, editorial notes, Commission notes, summaries of opinions of the Attorney General, indexes, analyses, title, chapter, article, part, and subpart captions or headings, and catchlines of Code sections are all annotations of the official code of Georgia, but listed as separate from “annotations.” Judicial summaries and summaries of research references are not listed despite also being Official Code of Georgia Annotations. Accordingly, in its response, Commission defines “O.C.G.A.” as “a publication containing the official code of Georgia and annotations to the official code,” wherein “annotations” refers

to all non-statutory elements of the publication. Commission objects to this request to the extent to which the terms “any communications” and “claimed” makes this request duplicative of Request Nos. 1, 2, and 3.

Documents responsive to this request are being produced in response to request Nos. 1, 2 and 3. No documents are being withheld based on these objections. No further documents are responsive to this request. Any additional relevant and non-privileged documents will be produced within six weeks of the date specified by Public Resource in its First Requests for Production of Documents. This time period is reasonable as it gives Commission one week from the end of the current legislative session to produce the additional documents.

REQUEST NO. 5: *All documents that support your assertion in Paragraphs 29 and 35 of the Amended Complaint that “there is no adequate remedy at law” for Plaintiff.*

RESPONSE: Commission objects to Public Resource’s definition of the term “documents” to the extent that it encompasses e-mail correspondence. Public Resource has not propounded specific discovery requests for e-mails as required by and stipulated to in the Joint Preliminary Report and Discovery Plan. (Dkt. No. 012, Item No. 11(b)(1)) Commission also objects to Public Resource’s definition of the term “your” as overly broad and unduly burdensome. Commission’s

responses will be made only on behalf of the Code Revision Commission on behalf of and for the benefit of the General Assembly of Georgia, and the State of Georgia.

Subject to and without waiving these objections, Commission previously produced documents COMM000001 and COMM000042 and produces COMM000044 herewith. Commission further identifies as responsive, the Amended Complaint and Exhibits (Dkt. Nos. 011 and 011-1 through 011-6) and Stipulation of Facts and Exhibits (Dkt. Nos. 017 and 017-1 through 017-13). Any additional relevant and non-privileged documents will be produced within six weeks of the date specified by Public Resource in its First Requests for Production of Documents. This time period is reasonable as it gives Commission one week from the end of the current legislative session to produce the additional documents.

REQUEST NO. 6: *All documents that support your assertion in Paragraphs 29 and 35 of the Amended Complaint that "Defendant's conduct will continue to cause severe and irreparable harm to Plaintiff."*

RESPONSE:

Commission objects to Public Resource's definition of the term "documents" to the extent that it encompasses e-mail correspondence. Public Resource has not propounded specific discovery requests for e-mails as required by

and stipulated to in the Joint Preliminary Report and Discovery Plan. (Dkt. No. 012, Item No. 11(b)(1)) Commission also objects to Public Resource's definition of the term "your" as overly broad and unduly burdensome. Commission's responses will be made only on behalf of the Code Revision Commission on behalf of and for the benefit of the General Assembly of Georgia, and the State of Georgia.

Subject to and without waiving these objections, Commission previously produced documents COMM000001 and COMM000042 and produces COMM000044 herewith. Commission further identifies as responsive, the Amended Complaint and Exhibits (Dkt. Nos. 011 and 011-1 through 011-6) and Stipulation of Facts and Exhibits (Dkt. Nos. 017 and 017-1 through 017-13). Any additional relevant and non-privileged documents will be produced within six weeks of the date specified by Public Resource in its First Requests for Production of Documents. This time period is reasonable as it gives Commission one week from the end of the current legislative session to produce the additional documents.

REQUEST NO. 7: *All documents that support your assertion in Paragraph 2 of the Amended Complaint that "[w]ithout providing the publisher the ability to recoup its costs for the development of these copyrighted annotations, the State of*

Georgia will be required to either stop publishing the annotations altogether or pay for development of the annotations using state tax dollars.”

RESPONSE: Commission objects to Public Resource’s definition of the term “documents” to the extent that it encompasses e-mail correspondence. Public Resource has not propounded specific discovery requests for e-mails as required by and stipulated to in the Joint Preliminary Report and Discovery Plan. (Dkt. No. 012, Item No. 11(b)(1)) Commission also objects to Public Resource’s definition of the term “your” as overly broad and unduly burdensome. Commission’s responses will be made only on behalf of the Code Revision Commission on behalf of and for the benefit of the General Assembly of Georgia, and the State of Georgia.

Subject to and without waiving these objections, Commission previously produced documents COMM000001 and COMM000042 and produces COMM000044 herewith. Commission further identifies as responsive, the Amended Complaint and Exhibits (Dkt. Nos. 011 and 011-1 through 011-6) and Stipulation of Facts and Exhibits (Dkt. Nos. 017 and 017-1 through 017-13). Any additional relevant and non-privileged documents will be produced within six weeks of the date specified by Public Resource in its First Requests for Production of Documents. This time period is reasonable as it gives Commission one week from the end of the current legislative session to produce the additional documents.

REQUEST NO. 8: *All documents that support your assertion in Paragraph 2 of the Amended Complaint that “[u]nless Defendant’s infringing activities are enjoined, Plaintiff and the citizens of the State of Georgia, will face losing valuable analysis and guidance regarding their state laws.”*

RESPONSE: Commission objects to Public Resource’s definition of the term “documents” to the extent that it encompasses e-mail correspondence. Public Resource has not propounded specific discovery requests for e-mails as required by and stipulated to in the Joint Preliminary Report and Discovery Plan. (Dkt. No. 012, Item No. 11(b)(1)) Commission also objects to Public Resource’s definition of the term “your” as overly broad and unduly burdensome. Commission’s responses will be made only on behalf of the Code Revision Commission on behalf of and for the benefit of the General Assembly of Georgia, and the State of Georgia.

Subject to and without waiving these objections, Commission previously produced documents COMM000001 and COMM000042 and produces COMM000044 herewith. Commission further identifies as responsive, the Amended Complaint and Exhibits (Dkt. Nos. 011 and 011-1 through 011-6) and Stipulation of Facts and Exhibits (Dkt. Nos. 017 and 017-1 through 017-13). Any additional relevant and non-privileged documents will be produced within six

weeks of the date specified by Public Resource in its First Requests for Production of Documents. This time period is reasonable as it gives Commission one week from the end of the current legislative session to produce the additional documents.

REQUEST NO. 9: *All documents upon which you rely regarding the effect of Public Resource's use of the O.C.G.A. upon the potential market for, or value of, the copyrighted works.*

RESPONSE: Commission objects to Public Resource's definition of the term "documents" to the extent that it encompasses e-mail correspondence. Public Resource has not propounded specific discovery requests for e-mails as required by and stipulated to in the Joint Preliminary Report and Discovery Plan. (Dkt. No. 012, Item No. 11(b)(1)) Commission also objects to Public Resource's definition of the term "you" as overly broad and unduly burdensome. Commission's responses will be made only on behalf of the Code Revision Commission on behalf of and for the benefit of the General Assembly of Georgia, and the State of Georgia. Commission further objects to Public Resource's definition of "O.C.G.A." as unclear and misleading because Public Resource separately lists "annotations" and certain portions of the O.C.G.A. that are encompassed by the term "annotations," but not other portions of the O.C.G.A. encompassed by the term. Specifically, notes on law review articles, editorial notes, Commission notes,

summaries of opinions of the Attorney General, indexes, analyses, title, chapter, article, part, and subpart captions or headings, and catchlines of Code sections are all annotations of the official code of Georgia, but listed as separate from “annotations.” Judicial summaries and summaries of research references are not listed despite also being Official Code Georgia Annotations. Accordingly, in its response, Commission defines “O.C.G.A.” as “a publication containing the official code of Georgia and annotations to the official code,” wherein “annotations” refers to all non-statutory elements of the publication.

Subject to and without waiving these objections, Commission previously produced documents COMM000001 and COMM000042 and produces COMM000044 herewith. Commission further identifies as responsive, the Amended Complaint and Exhibits (Dkt. Nos. 011 and 011-1 through 011-6) and Stipulation of Facts and Exhibits (Dkt. Nos. 017 and 017-1 through 017-13). Any additional relevant and non-privileged documents will be produced within six weeks of the date specified by Public Resource in its First Requests for Production of Documents. This time period is reasonable as it gives Commission one week from the end of the current legislative session to produce the additional documents.

REQUEST NO. 10: *Documents relating to usage reports regarding users accessing the unannotated O.C.G.A. on the website operated by Matthew Bender*

and Company, a member of the LexisNexis Group, a division of Reed Elsevier Properties, Inc., as described in Paragraph 2.5(a)(1) of the Agreement for Publication. [COMM000011- 12].

RESPONSE: Commission objects to Public Resource’s definition of the term “documents” to the extent that it encompasses e-mail correspondence. Public Resource has not propounded specific discovery requests for e-mails as required by and stipulated to in the Joint Preliminary Report and Discovery Plan. (Dkt. No. 012, Item No. 11(b)(1)) Commission also objects to Public Resource’s definition of “O.C.G.A.” as unclear and misleading because Public Resource separately lists “annotations” and certain portions of the O.C.G.A. that are encompassed by the term “annotations,” but not other portions of the O.C.G.A. encompassed by the term. Specifically, notes on law review articles, editorial notes, Commission notes, summaries of opinions of the Attorney General, indexes, analyses, title, chapter, article, part, and subpart captions or headings, and catchlines of Code sections are all annotations of the official code of Georgia, but listed as separate from “annotations.” Judicial summaries and summaries of research references are not listed despite also being Official Code of Georgia Annotations. Accordingly, in its response, Commission defines “O.C.G.A.” as “a publication containing the official code of Georgia and annotations to the official code,” wherein “annotations” refers to all non-statutory elements of the publication.

Subject to and without waiving these objections, Commission produces the following document: COMM000228.

REQUEST NO. 11: *All correspondence received by David Ralston, Speaker of the House, Georgia House of Representatives, and Mr. Wayne Allen, Legislative Counsel, Office of Legislative Counsel, Georgia General Assembly, from citizens of the State of Georgia regarding the initiation of this litigation.*

RESPONSE: Commission objects to this request because it seeks documents that reflect comments and opinions of individuals regarding the litigation proceeding, which are not relevant to the claims or defenses of the parties. No documents are being produced in response to this request.

February 18, 2016

s/Anthony B. Askew/

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benefit of the General Assembly of
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CERTIFICATE OF SERVICE

I certify that on Thursday, February 18, 2016, the foregoing **PLAINTIFF COMMISSION'S RESPONSE TO DEFENDANT PUBLIC RESOURCE.ORG, INC.'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS** was sent to counsel for Defendant Public.Resource.Org by electronic mail at the addresses listed below.

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