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## Public Works Projects for the Internet

April 30, 2008

The Honorable Dexter A. Johnson  
Legislative Counsel of the State of Oregon  
Legislative Counsel Committee  
The State of Oregon  
Attn: Mr. Sean Brennan, Esq.

Re: Public License Agreement

Dear Mr. Johnson:

Thank you for taking the time to speak with us yesterday as well as last week and the week before. Please also pass on our thanks to Mr. Brennan and the rest of your colleagues who were present on our call.

We have had time to review your so-called “public” license which Mr. Brennan forwarded yesterday morning. As you know I had suggested the so-called C-SPAN Compromise as a measure that, in that dispute at least, worked for both sides. When C-SPAN was faced with the issue of asserting copyright over videotapes of congressional hearings, they simply decided not to assert the rights they believe they have for a broad class of use. We believed fairly strongly that the hearings might be public domain, they believed the opposite, but their clarified stance led to greatly increased dissemination of government information, a goal we both shared.

With the Oregon Revised Statutes, I believe we are at a similar impasse. We believe strongly that not only are the underlying statutes public domain, but that many of the so-called value-added features you are asserting copyright on are part and parcel of the laws themselves. The creative work you claim is simply an attempt to assert control over the underlying law, gluing a private wrapper around a public package in order to control how it is used and to maximize revenue.

In addition to a fundamental disagreement on the ability to assert copyright over public laws, I believe we disagree as to the extent of the control one can assert even if copyright is present.

C-SPAN, a \$50 million/year non profit which is a major media presence in the United States, has a copyright policy of 318 words. The so-called “public” license of ORS, a state body with a charter to disseminate public laws, is 2,739 words and is incompatible with how public domain data is distributed.

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On our servers, we make data available in bulk for anonymous download with no restrictions, terms of use, or license. We make no distinctions or restrictions based on derivative works versus collective works, commercial advantage, sublicensing, technology protection, and do not require the inclusion of any documents or any links

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Because the assertion of copyright by Oregon is so strong, we believe this is a real cloud over our ability to make the Oregon Revised Statutes available on our servers. Your "Cease and Desist" letters, our phone calls, and the so-called "public license" all indicate that you take the issue seriously, and as explained in this and previous letters, I believe our positions are fundamentally in disagreement, and thus regretfully request that you direct further communications on this issue to our counsel, Mr. Karl Olson of Levy, Ram & Olson LLP.

Sincerely yours,

Carl Malamud

Digitally signed by Carl Malamud  
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