

**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/
Counter-Plaintiff.

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

**PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND FOR A PERMANENT
INJUNCTION**

Plaintiffs/Counter-Defendants American Society for Testing and Materials d/b/a ASTM International (“ASTM”), National Fire Protection Association, Inc. (“NFPA”), and American Society of Heating, Refrigerating, and Air Conditioning Engineers (“ASHRAE”) (collectively, “Plaintiffs”) respectfully move for summary judgment that Defendant Public.Resource.Org, Inc.’s copying of Plaintiffs’ standards and displaying and distribution of its copies of Plaintiffs’ standards that include Plaintiffs’ trademarks constitutes copyright and trademark infringement. Plaintiffs seek summary judgment only with respect to their claims concerning the following works: ASTM D86-07, ASTM D975-07, ASTM D396-98, ASTM D1217-93(98), the 2011 and

2014 versions of NFPA's National Electrical Code, and the 2004, 2007 and 2010 versions of ASHRAE's Standard 90.1.¹

As detailed in the attached Memorandum of Law, there are no disputed issues of fact that prevent the Court from entering summary judgment. Plaintiffs own valid copyrights in the works at issue and it is undisputed that Defendant copied the works and displayed and distributed its copies on the internet where the public can print, download and copy them without restriction. Defendant also used Plaintiffs' trademarks on versions of the works that Defendant altered and into which Defendant introduced errors. The defenses Defendant asserted are not supported by the undisputed facts or by the relevant case law. Thus, the Court should enter summary judgment in favor of Plaintiffs.

Additionally, Plaintiffs move for entry of a permanent injunction to address the irreparable harm Plaintiffs have suffered based on Defendant's infringement and will continue to suffer absent an injunction.

In support of their Motion, Plaintiffs submit the attached Memorandum of Law along with a Statement of Undisputed Material Facts and the supporting declarations. Plaintiffs also attach a Proposed Order and Permanent Injunction.

¹ Plaintiffs believe that, with the benefit of the Court's guidance on this Motion, the parties will be able to resolve any remaining dispute with respect to the other works in suit.

Dated: November 19, 2015

Respectfully submitted,

/s/ J. Kevin Fee

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