

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR TESTING AND)
MATERIALS d/b/a ASTM)
INTERNATIONAL, et al.)

Plaintiffs,)

v.)

PUBLIC.RESOURCE.ORG, INC.,)

Defendant.)

Civil Action No. 1:13-cv-01215-TSC

**UNOPPOSED MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF IN
SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT
AND CORPORATE DISCLOSURE CERTIFICATION**

The American National Standards Institute, Inc. (“ANSI”), American Society of Safety Engineers (“ASSE”), The Institute of Electrical and Electronics Engineers, Incorporated (“IEEE”), International Association of Plumbing & Mechanical Officials (“IAPMO”), National Electrical Manufacturers Association (“NEMA”), North American Energy Standards Board (“NAESB”), and Underwriters Laboratories Inc. (“UL”) respectfully move for leave to file an *amicus curiae* brief in support of the Motion for Summary Judgment (Docket No. 118) filed by the Plaintiffs in the above-referenced matter.

1. ANSI is a not-for-profit membership organization that, for more than 97 years, has administered and coordinated the voluntary standardization system in the United States. Comprised of government agencies, organizations, companies, consumer groups, academic, and international bodies, ANSI represents the interests of more than 125,000 companies and 3.5 million professionals and hundreds of standards developing organizations (“SDO” or “SDOs”) such as *amici* ASSE, IEEE, IAPMO, NAESB, NEMA and UL. ANSI regularly represent the

interests of its members in matters before Congress, the Executive Branch and the courts by sharing its expertise relating to the intersection of standards and copyright law, through Congressional testimony, responses to Federal Agency solicitations and prior *amicus* filings.

2. ANSI and its SDO members, including *amici* ASSE, IEEE, IAPMO, NAESB, NEMA and UL, have a substantial interest in the outcome of this case. The copyrighted standards at issue are part of a large and important ecosystem of creative works developed by not-for-profit SDOs. These SDOs create and maintain at their own substantial expense their copyrighted standards and make them available to interested parties, government regulators, and the public at large. Loss of copyright protection for these works would drastically undermine the ability of these organizations to fund the ongoing creation and updating of these important works, and would therefore harm the governments and the public who benefit from and rely on their work.

ANSI and the other *amici* are uniquely suited to address and explain the policy and legal implications that would arise from a loss of copyright protection on SDO-authored works incorporated by reference into Federal regulations.

3. This Court has allowed *amicus curiae* participation when the *amicus* “has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” Jin v. Ministry of State Security, 557 F. Supp. 2d 131, 137 (D.D.C. 2008) (quoting Ryan v. Commodity Futures Trading Comm’n, 125 F.3d 1062, 1064 (7th Cir. 1997)); Cobell v. Norton, 246 F. Supp. 2d 59, 62 (D.D.C. 2003). Given ANSI’s role as the national coordinating body that facilitates the standards-development system in the United States by accrediting standards developers, ANSI’s (and its accredited SDO’s) unique perspective will help the court in understanding the context of the current debate as well as the implications for

the SDO community of a decision in this case that would abrogate copyright protection for the important works of SDOs.

4. The Parties have agreed that they will not oppose any *amicus* filing in support of either side. See Joint Report on Proposed Summary Judgment Briefing Schedule, dated October 30, 2015.

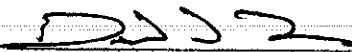
5. Counsel for ANSI, IEEE, ASSE, IAPMO, NAESB, NEMA and UL attempted to confer with counsel for Defendant on December 21, 2015 and December 28, 2015 regarding the filing of this motion but was unsuccessful in obtaining a response.

DATED: December 28, 2015

Respectfully Submitted,

CARTER LEDYARD & MILBURN LLP

MORRIS, MANNING & MARTIN, LLP



Gerald W. Griffin
(*Pro Hac Vice* Admission Pending)
2 Wall Street
New York, NY 10005
griffin@clm.com
Telephone: (212) 732-3200
Facsimile: (212) 732-3232

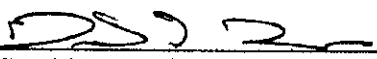
/s/ Bonnie Y. Hochman Rothell
Bonnie Y. Hochman Rothell
D.C. Bar # 421606
1401 Eye Street, N.W., Suite 600
Washington, D.C. 20005
bhrothell@mmmlaw.com
Telephone: (202) 408-5153
Facsimile: (202) 408-5146

CORPORATE DISCLOSURE CERTIFICATION

Pursuant to Federal Rule of Civil Procedure 7.1 and LCvR 7.1, Gerald W. Griffin the undersigned counsel of record for ANSI, ASSE, IEE, IAPMO, NAESB, NEMA and UL, certifies that to the best of my knowledge and belief, ANSI, IEEE, ASSE, IAPMO, NAESB, NEMA and UL do not have parent companies, subsidiaries or affiliates with any outstanding securities in the hands of the public. This representation is made to enable the judges of this Court to determine the need for recusal.

CARTER LEDYARD & MILBURN LLP

MORRIS, MANNING & MARTIN, LLP



Gerald W. Griffin
(Pro Hac Vice Admission Pending)
2 Wall Street
New York, NY 10005
griffin@clm.com
Telephone: (212) 732-3200
Facsimile: (212) 732-3232

/s/ Bonnie Y. Hochman Rothell

Bonnie Y. Hochman Rothell
D.C. Bar # 421606
1401 Eye Street, N.W., Suite 600
Washington, D.C. 20005
bhrothell@mmmlaw.com
Telephone: (202) 408-5153
Facsimile: (202) 408-5146