

**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-Counterdefendants,

v.

PUBLIC.RESOURCE.ORG, INC.,

Defendant-Counterclaimant.

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

**SUPPLEMENTAL REQUEST FOR
JUDICIAL NOTICE IN FURTHER
SUPPORT OF DEFNDANT-
COUNTERCLAIMANT
PUBLIC.RESOURCE.ORG, INC.'S
MOTION FOR SUMMARY
JUDGMENT**

Pursuant to Federal Rule of Evidence 201(b) and the authorities cited below, Defendant-Counterclaimant Public.Resource.Org respectfully requests that the Court take judicial notice of each of the following matters in connection with its Motion for Summary Judgment:

1. A webpage of the U.S. Government Publishing Office entitled *Browse Government Publications*, at <https://www.gpo.gov/fdsys/browse/collectiontab.action>, a true and correct copy of which is attached to Public Resource's Consolidated List of Exhibits for Its Reply Memorandum as **Exhibit 12**.

2. A Memorandum for the Heads of Executive Departments and Agencies from John P. Holdren, Director of the Office of Science and Technology Policy, Executive Office of the President, regarding Increasing Access to the Results of Federally Funded Scientific Research, dated Feb. 22, 2013 and published at <https://www.whitehouse.gov/sites/default/files/microsites/>

ostp/ostp_public_access_memo_2013.pdf, a true and correct copy of which is attached to Public Resource's Consolidated List of Exhibits for Its Reply Memorandum as **Exhibit 13**.

3. A webpage of the U.S. Department of Justice entitled "Accessibility of State and Local Government Websites to People with Disabilities," at <http://www.ada.gov/websites2.htm>, a true and correct copy of which is attached to Public Resource's Consolidated List of Exhibits for Its Reply Memorandum as **Exhibit 14**.

4. The Report of the Advisory Commission on Accessible Instructional Materials in Postsecondary Education for Students with Disabilities, dated December 6, 2011 and published on the U.S. Department of Education website at <http://www2.ed.gov/about/bdscomm/list/aim/meeting/aim-report.pdf>, a true and correct copy of which is attached to Public Resource's Consolidated List of Exhibits for Its Reply Memorandum as **Exhibit 15**.

5. The fact that federal courts of the United States purchase bound volumes of statutes and case law and also access the law electronically through commercial services.

A district court may take judicial notice of facts that are "not subject to reasonable dispute in that [they are] either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b).

Specifically, a court may take judicial notice of matters of public record. *See Beichick v. Washington Metro. Area Transit Comm'n*, 485 F.2d 858, 880 (D.C. Cir. 1973) ("matters of public record . . . [are] well within the range of judicial notice). This Court has "frequently taken judicial notice of information posted on official public websites of government agencies."

Pharm. Research & Manufacturers of Am. v. United States Dep't of Health & Human Servs.,

43 F. Supp. 3d 28, 33 (D.D.C. 2014) (citing *Cannon v. District of Columbia*, 717 F.3d 200, 205 n. 2 (D.C. Cir. 2013)).

For these reasons, Public.Resource.Org respectfully requests that the Court take judicial notice of the matters listed above.

Dated: February 4, 2016

Respectfully submitted,

/s/ Corynne McSherry
Corynne McSherry (admitted *pro hac vice*)
corynne@eff.org
Mitchell L. Stoltz (D.C. Bar No. 978149)
mitch@eff.org
ELECTRONIC FRONTIER FOUNDATION
815 Eddy Street
San Francisco, CA 94109
Telephone: (415) 436-9333
Facsimile: (415) 436-9993

David Halperin (D.C. Bar No. 426078)
davidhalperindc@gmail.com
1530 P Street NW
Washington, DC 20005
Telephone: (202) 905-3434

Andrew P. Bridges (admitted)
abridges@fenwick.com
Matthew Becker (admitted)
mbecker@fenwick.com
FENWICK & WEST LLP
555 California Street, 12th Floor
San Francisco, CA 94104
Telephone: (415) 875-2300
Facsimile: (415) 281-1350

Attorneys for Defendant-Counterclaimant
Public.Resource.Org, Inc.