

**IN THE 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/Counterclaimant.

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

**PRELIMINARY AND NON-BINDING  
STATEMENT OF ISSUES BY  
APPELLANT/DEFENDANT-  
COUNTERCLAIMANT  
PUBLIC.RESOURCE.ORG, INC.**

Action Filed: August 6, 2013

Pursuant to Federal Rule of Appellate Procedure 10(b), Defendant and Counterclaimant Public.Resource.Org, Inc. hereby provides the following preliminary and non-binding statement of issues on appeal:

**I. Statement of Issues to be Raised**

1. Did the district court err by enjoining Public.Resource.Org?
2. Did the district court err in holding that Plaintiff-Appellees can assert copyright in, and thus limit the ability of people to read and communicate, the text of standards that are legally binding due to incorporation into state and federal laws and regulations?

3. Did the district court err in holding that Public.Resource.Org's posting of standards that are legally binding due to incorporation into state and federal laws and regulations, in the course of building a publicly accessible archive of government edicts, was not a fair use?
4. Did the district court err in holding that Public.Resource.Org's posting of standards that are legally binding due to incorporation into state and federal laws and regulations, which contain Plaintiff-Appellees' names and logos as part of their text, constituted trademark infringement?
5. Did the district court err in holding that Plaintiff-Appellees own copyrights in standards that are legally binding due to incorporation into state and federal laws and regulations, despite undisputed evidence showing that Plaintiff-Appellees were not the authors of those standards?
6. Did the district court err by declining to strike a purported expert report of John Jarosz that applied no specialized knowledge, experience, or expertise, but merely repeated the subjective opinions of Plaintiff-Appellees' employees and officers?
7. Did the district court err by making evidentiary rulings against Public.Resource.Org, and failing to sustain Public.Resource.Org's evidentiary objections regarding Plaintiffs' motion for summary judgment?

## **II. Underlying Decision from Which Appeal Arises**

The rulings under review (attached hereto) are the district court's Order of February 2, 2017 granting Plaintiff-Appellees' Motion for Summary Judgment, granting Plaintiff-Appellees' Motion for Permanent Injunction, and denying Defendant-Appellant Public.Resource.Org's Motion for Summary Judgment (ECF No. 176) and Memorandum Opinion (ECF No. 175), and

the district court's Order of September 21, 2016 denying Defendant-Appellant  
Public.Resource.Org's Motion to Strike the expert report of John C. Jarosz (ECF No. 172).

Dated: March 1, 2017

Respectfully submitted,

/s/ Andrew P. Bridges

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing was electronically filed with the Clerk of the Court for the District of Columbia and served on all counsel of record via the CM/ECF system on March 1, 2017.

*/s/ Andrew P. Bridges*  
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Andrew P. Bridges