

# EXHIBIT 49

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-EGS

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VIDEOTAPED DEPOSITION

DEPONENT: VIKAS BHUTADA

DATE: Wednesday, November 5, 2014

TIME: 9:11 a.m.

LOCATION: 2000 Town Center, Suite 1900  
Southfield, Michigan

REPORTER: Jeanette M. Fallon, CRR/RMR/CSR-3267

Capital Reporting Company  
Bhutada, Vikas 11-05-2014

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<p>1 APPEARANCES</p> <p>2 MORGAN LEWIS &amp; BOCKIUS LLP</p> <p>3 By: J Kevin Fee</p> <p>4 111 Pennsylvania Avenue, N W</p> <p>5 Washington, D C 20004</p> <p>6 202 739 5215</p> <p>7 jkfee@morganlewis.com</p> <p>8</p> <p>9 Appearing on behalf of ASTM International</p> <p>10</p> <p>11 ELECTRONIC FRONTIER FOUNDATION</p> <p>12 By: Mitch Stoltz</p> <p>13 815 Eddy Street</p> <p>14 San Francisco, CA 94109</p> <p>15 415 436 9333</p> <p>16 mitch@eff.org</p> <p>17 Appearing on behalf of Public Resource Org, Inc</p> <p>18 JOHN G COUTILISH PC</p> <p>19 By: John G Coutilish</p> <p>20 5700 Crooks Road, Suite 220</p> <p>21 Troy, MI 48098</p> <p>22 248 375 1000</p> <p>23 coutilish@comcast.net</p> <p>24</p> <p>25 Appearing on behalf of HTC Global Services</p>	<p>1 TABLE OF CONTENTS</p> <p>2</p> <p>3 WITNESS PAGE</p> <p>4</p> <p>5 VIKAS BHUTADA</p> <p>6</p> <p>7 Examination by Mr. Fee 7</p> <p>8 Examination by Mr. Zee 86</p> <p>9 Examination by Mr. Rehn 90</p> <p>10 Examination by Mr. Stoltz 96</p> <p>11 Reexamination by Mr. Fee 104</p> <p>12 Reexamination by Mr. Stoltz 107</p> <p>13</p> <p>14</p> <p>15 EXHIBITS</p> <p>16</p> <p>17 NUMBER IDENTIFICATION PAGE</p> <p>18</p> <p>19 Ex. No. 1 Subpoena 11</p> <p>20 Ex. No. 2 Bates PRO4964 - 65 35</p> <p>21 Ex. No. 3 "Double Key and Compare Data</p> <p>22 Entry Process" 39</p> <p>23 Ex. No. 4 "Summary of Projects with</p> <p>24 Media.Org/Public.Resource.Org" 47</p> <p>25</p>
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<p>1 APPEARANCES (continued):</p> <p>2 MUNGER TOLLES &amp; OLSON LLP</p> <p>3 By: Nathan M. Rehn (appearing via telephonically)</p> <p>4 560 Mission Street, 27th Floor</p> <p>5 San Francisco, CA 94105</p> <p>6 415.512.4000</p> <p>7 Thane.Rehn@mto.com</p> <p>8</p> <p>9 Appearing on behalf of NFPA, Inc.</p> <p>10</p> <p>11 KING &amp; SPALDING LLP</p> <p>12 By: Andrew Zee (appearing via telephonically)</p> <p>13 101 Second Street, Suite 2300</p> <p>14 San Francisco, CA 94105</p> <p>15 415.318.1200</p> <p>16 azee@kslaw.com</p> <p>17 Appearing on behalf of ASHRAE</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 ALSO PRESENT:</p> <p>24 Dan Eley, videographer</p> <p>25</p>	<p>1 EXHIBITS</p> <p>2</p> <p>3 NUMBER IDENTIFICATION PAGE</p> <p>4</p> <p>5 Ex. No. 5 Bates PRO26049 - 50 56</p> <p>6 Ex. No. 6 11/9/12 Email 60</p> <p>7 Ex. No. 7 2/25/12 Email 63</p> <p>8 Ex. No. 8 Bates PRO5092 - 94 64</p> <p>9 Ex. No. 9 Bates PRO25945 - 46 66</p> <p>10 Ex. No. 10 3/14/13 Email 74</p> <p>11 Ex. No. 11 8/26/12 Email 76</p> <p>12 Ex. No. 12 10/22/13 Email 78</p> <p>13 Ex. No. 13 1/2/13 Email 79</p> <p>14 Ex. No. 14 Bates PRO25943 - 44 81</p> <p>15 Ex. No. 15 Bates PRO5058 - 65 83</p> <p>16</p> <p>17 (Original Exhibits Retained by Mr. Fee.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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6	1 Southfield, Michigan 2 Wednesday, November 5, 2014 3 * * * 4 THE VIDEOGRAPHER: This begins Volume 5 1, 6 Tape 1 of the videotaped deposition of Vikas Bhutada 7 in the matter of ASTM International versus 8 Public.Resource.Org, Case Number 1:13-CV-01215- 9 EGS. 10 This deposition is being held at the Regus 11 Office in Southfield, Michigan. The date is November 12 5th, 2014 and the time is 9:11 a m. 13 My name is Dan Eley with the firm of 14 Capital Reporting Company, I'm the legal video 15 specialist. The court reporter is Jeanette Fallon, 16 also associated with Capital Reporting in Washington, 17 D.C. 18 Would counsel please introduce themselves? 19 MR. FEE: Kevin Fee from Morgan Lewis on 20 behalf of ASTM. 21 MR. STOLTZ: Mitchell Stoltz from the 22 Electronic Frontier Foundation on behalf of 23 Public.Resource.Org. 24 MR. COUTILISH: John Coutilish appearing on 25 behalf of HTC Global Services, third-party deponent. MR. FEE: Counsel on the phone.	8
7	1 on behalf of the American Society of Heating, 2 Refrigerating, and Air Conditioning Engineers from 3 King & Spalding. 4 MR. REHN: This is Thane Rehn from the law 5 firm of Munger Tolles & Olson on behalf of the 6 plaintiff, National Fire Protection Association, 7 Incorporated appearing by telephone. 8 VIKAS BHUTADA 9 was thereupon called as a witness herein, and after having 10 first been duly sworn to tell the truth, the whole truth, 11 and nothing but the truth, was examined and testified as 12 follows: 13 EXAMINATION 14 BY MR. FEE: 15 Q. Good morning. 16 A. Good morning. 17 Q. Would you please state your name for the record? 18 A. Vikas Bhutada. 19 Q. Would you spell that, please? 20 A. V-I-K-A-S, B-H-U-T-A-D-A. 21 Q. Have you ever been deposed before? 22 A. Have I ever been? 23 Q. Deposed before? 24 A. Yes. 25 Q. So you have a general idea as to what's going to 1 Q. Anyone else? 2 A. No. 3 Q. Have you met prior to today with your counsel 4 regarding this deposition? 5 A. No. 6 Q. Have you had any telephone calls or correspondence 7 with your counsel regarding this deposition prior to 8 today? 9 MR. COUTILISH: Just to instruct the 10 witness, any communications between you and I are 11 privileged and you're not to disclose communications 12 between us. You can disclose the fact that we talked, 13 right, you can answer that question, but I don't want 14 you to go any further in terms of invading the 15 attorney-client privilege between HTC Global Services 16 and my firm. 17 THE WITNESS: Yes. 18 Q. So did you have some communications with your 19 counsel 20 regarding this deposition prior to today? 21 A. Yes. 22 Q. Were there any telephone conversations? 23 A. Yes. 24 Q. How long were those conversations? 25 A. Very brief. I don't know, maybe 10, 15 minutes max. Q. How many conversations were there?	9

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10	<p>1 A. Maybe two.</p> <p>2 Q. And they were 10 or 15 minutes each or in total?</p> <p>3 A. No, total.</p> <p>4 Q. Did you speak with anyone else regarding this deposition?</p> <p>5 A. Do you mean within HTC or talking about outsiders?</p> <p>6 Q. Anybody.</p> <p>7 A. Yeah, just my business development director.</p> <p>8 Q. What's your business development director's name?</p> <p>9 A. H-E-M-A-N-T, Hemant, Talwalkar, T-A-L-W-A-L-K-A-R.</p> <p>10 Q. What did you discuss with Mr. Talwalkar?</p> <p>11 A. It's about because he was dealing with the customer so understanding his discussions with the customer.</p> <p>12 Q. Anything else?</p> <p>13 A. No.</p> <p>14 Q. Besides your counsel and Mr. Talwalkar, you have not discussed your preparation for this deposition this morning?</p> <p>15 A. And I also talked to our delivery management in India who were involved in delivering the project.</p> <p>16 Q. Who specifically did you speak to about that?</p> <p>17 A. Natraj, N-A-T-R-A-J.</p> <p>18 Q. On how many occasions did you speak with Dr. Natraj?</p>	12	
11	<p>1 Q. And how many occasions did you speak to Mr. Talwalkar regarding your deposition?</p> <p>2 A. Three or four.</p> <p>3 Q. Besides those two individuals and your counsel have you spoken to anybody else regarding your deposition today?</p> <p>4 A. No.</p> <p>5 Q. Did you speak to anybody else in preparing for your deposition today?</p> <p>6 A. No.</p> <p>7 Q. Have you ever spoken with Carl Malamud?</p> <p>8 A. No.</p> <p>9 Q. Have you ever spoken with any counsel for Mr. Malamud or Public Resource?</p> <p>10 A. No.</p> <p>11 Q. To the best of your knowledge has anybody on behalf of HTC spoken with Carl Malamud or his counsel regarding this deposition?</p> <p>12 A. Not regarding the deposition, no.                  (Marked for identification                  Deposition Exhibit No. 1.)</p> <p>13 Q. The court reporter has marked as Exhibit 1 the subpoena that was directed to HTC Global Services</p>	<p>1 A. Sorry, what is the question?</p> <p>2 Q. My question after you've had a chance to review it is have you ever seen that document before?</p> <p>3 A. Yes.</p> <p>4 Q. Do you understand that you're testifying pursuant to this subpoena?</p> <p>5 A. Yes.</p> <p>6 Q. Would you turn to the fourth page of this document that's entitled attachment 1?</p> <p>7 A. Yes.</p> <p>8 Q. Have you read this portion of the document prior to today?</p> <p>9 A. Yeah.</p> <p>10 Q. Go back to page 4 of attachment 1. Do you see at the bottom of that page there's a heading that says request for production?</p> <p>11 A. Yes.</p> <p>12 Q. And then there's one request on that page and then 11 additional requests on the two following pages; do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Have you reviewed these requests for production prior to today?</p> <p>15 A. Yes.</p> <p>16 Q. Have you attempted to locate documents that are responsive to these requests?</p> <p>17 A. Yes, I did.</p> <p>18 Q. Would you describe to me how you went about trying to locate documents responsive to those requests?</p> <p>19 A. Went about requesting our business development director, who was liaisoning with the customer to get these documents either from here or from our office in India.</p> <p>20 Q. So is it fair to say you delegated the collection of documents?</p> <p>21 A. Yes.</p> <p>22 Q. What do you know about the efforts to collect the documents by your delegee?</p> <p>23 A. Well, they've tried to locate the documents and they have located quite a few documents which were submitted to our counsel.</p> <p>24 Q. Do you know how the search was conducted?</p> <p>25 A. I don't know how the search was conducted, no.</p> <p>26 Q. Did you give any specific instructions regarding how the search to be conducted?</p> <p>27 A. No.</p> <p>28 Q. So did you just ask your delegee to try to find any documents responsive to these requests with no further instruction?</p> <p>29 A. Yes, I asked them to find the documents and followed</p>	13

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<p style="text-align: right;">14</p> <p>1 up with them about finding the documents. 2 Q. Did you receive any questions from the person or 3 persons you asked to find these documents? 4 A. Yes, they asked me the questions and some of the 5 documents they did not think made sense or we did not 6 have them. 7 Q. Do you recall which requests somebody told you they 8 didn't believe made sense? 9 A. No, I do not recall that. 10 Q. To the best of your knowledge are all the documents 11 in 12 the possession, custody or control of HTC Global that 13 are responsive to requests 1 through 12 been produced 14 in this case? 15 A. Yes. 16 MR. COUTILISH: Could you be -- just for 17 the record, the record should reflect that we have 18 sent to you, to your office, on at least two different 19 occasions documents that are responsive to this 20 request pursuant to our investigation and those 21 documents were sent electronically. 22 Q. I want to turn back to Exhibit 1 on page 4 of 23 attachment 1. 24 A. Yes. 25 Q. Do you see at the top of that page there's topics on which examination is required?</p>	<p style="text-align: right;">16</p> <p>1 background? 2 A. I've done my master's in technology. 3 Q. Where? 4 A. From India. 5 Q. Which university or college? 6 A. IIT, Indian Institutes of Technology. 7 Q. When did you receive that degree? 8 A. 1982. 9 Q. Do you have any other post equivalent of high school 10 educational background? 11 A. I didn't get the question. Post -- 12 Q. First of all, did you attend the equivalent of high 13 school in the United States? 14 A. No. 15 Q. Did you attend the equivalent of high school in India? 16 A. Yes. 17 Q. After attending the equivalent of high school in India 18 you mentioned you had a master's degree. Is there any 19 other post the equivalent of high school education you 20 have? 21 A. Oh, you mean the high school, then the bachelor's in 22 engineering and then the master's in engineering, 23 master's in technology. 24 Q. And where did you get the master's in engineering 25 from?</p>
<p style="text-align: right;">15</p> <p>1 A. Yes. 2 Q. Have you reviewed those topics? 3 A. Yes. 4 Q. Are you prepared to testify on behalf of HTC Global 5 regarding all those topics? 6 A. Yes. 7 Q. Do you feel adequately prepared to address all those 8 topics? 9 A. Yes. 10 Q. What have you done to prepare yourself to address 11 those topics today? 12 A. I have reviewed the communication that our team has 13 found, reviewed the statement of works or the purchase 14 orders that were issued by the customer and reviewed 15 the communication related to delivery of the 16 documents. 17 Q. To the best of your knowledge were all the documents 18 that you reviewed in preparing to testify produced to 19 ASTM's counsel? 20 A. Yes. 21 MR. STOLTZ: For the record Public Resource 22 has not received a copy of those documents yet and 23 we'd request that those be produced. 24 MR. FEE: We will produce those to you. 25 Q. Would you briefly describe your educational</p>	<p style="text-align: right;">17</p> <p>1 A. In India. 2 Q. At the same university? 3 A. No, it's called Nagpur, N-A-G-P-U-R, University. 4 Q. Besides the degrees you've just mentioned do you 5 have 6 any other technology certifications? 7 A. Not currently, no. 8 Q. Did you at one point in time have a technology 9 certification? 10 A. Yes. 11 Q. What was that? 12 A. It was CISA, Certified Information Systems Auditor. 13 Q. When did you have that certification? 14 A. Can't recall, several years ago, maybe '9 -- in the 15 '90s. 16 Q. Could you describe your work history after you 17 received your master's degree? 18 A. I worked with an engineering company called Tartar 19 Engineering &amp; Automotive Manufacturing in India, 20 then 21 I worked in Bahrain for 11 years with a company 22 called 23 Datamas in information technology area. 24 Q. What was the name of that company again? 25 A. Datamas, D-A-T-A-M-A-S. Q. I'm sorry.</p>

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18	<p>1 A. I managed operations of the company as a general 2 manager of the company. 3 Q. What was the business of Datamas? 4 A. IT, IT solutions and products. 5 Q. During your time at Datamas were you doing 6 anything 7 like content digitization? 8 A. No. 9 Q. Then at what the point in time did you come to HTC? 10 A. In 1995. 11 Q. In what role did you join HTC in 1995? 12 A. As a director of business development. 13 Q. How long did you hold that position for? 14 A. It's about five -- four years, three to four years. 15 Q. What position did you hold next? 16 A. Then the next one was vice-president of projects and 17 alliances. 18 Q. How long did you have that position for? 19 A. For about ten years -- eight, nine years maybe. 20 Q. What position did you have next at HTC? 21 A. Executive vice-president. 22 Q. Is that the entire title? 23 A. Yeah. 24 Q. What are your responsibilities as executive -- what 25 were your responsibilities as EVP? A. EVP I managed some of our strategy customer</p>	20	<p>1 director of business development had received a 2 request for a proposal from Public Resource and that's 3 how he -- he briefed me on the company. 4 Q. Would your business development director 5 customarily 6 approach you regarding any RFP that he received? 7 A. Sorry, can you repeat the question? 8 Q. Sure. Would your business development director 9 customarily approach you regarding any RFP that you 10 received? 11 A. Yes. 12 Q. Do you recall what your business development 13 director 14 told you about the RFP from Public Resource at the 15 time? 16 A. I don't recall that, but I know that it was partially 17 related to content digitization or conversion. 18 Q. Who was the business development director at that 19 time? 20 A. The name I gave you, the same person, Hemant, 21 H-E-M-A-N-T. 22 Q. Had HTC been in the content digitization or 23 conversion 24 business prior to that time? 25 A. Yes. Q. About how long?</p>
19	<p>1 relationships as well as manage a business unit. 2 Q. What business unit? 3 A. Yeah, manage a business unit within HTC. 4 Q. What business unit? 5 A. It's focused on customers in publishing, higher 6 education, and some of the other strategy customers of 7 HTC. 8 Q. Are you still the executive vice-president at HTC? 9 A. Yes. 10 Q. In the course of your work at HTC did you ever have 11 occasion to deal with Public Resource? 12 A. Do you mean meeting with Public Resource, dealing 13 -- 14 dealing, yes, because the business development 15 director worked for me. He managed the 16 Public Resource account so I had a responsibility of 17 him. 18 Q. Do you recall the first time when you became aware 19 of 20 the existence of Public Resource? 21 A. 2010 when we started doing business with them. 22 Q. Did you become aware of Public Resource after they 23 had 24 already become a customer? 25 A. Yes. Q. Do you recall how you first became aware of Public</p>	21	<p>1 what responsibility have you had over the content 2 digitization portion of HTC's business? 3 A. I have had customers -- I've been managing the 4 customers and the customer relationships where we've 5 been doing content digitization work and obviously 6 communicating with development organization in 7 terms 8 of if there are any escalations, issues, challenges, 9 those kind of things. 10 Q. So is the entire content digitization business under 11 your chain of command? 12 A. No, it is kind of horizontal in the company so that is 13 managed by the -- by our team in India. 14 Q. Were you involved in the decision by HTC Global to 15 get 16 into the content digitization or conversion business? 17 A. Yes, to an extent. 18 Q. What was your role in that? 19 A. I had the clients who had requested for that service 20 to be provided. 21 Q. Did you have any other role? 22 A. No. 23 Q. Do you own any portion of HTC's shares? 24 A. No. 25 Q. Who is the owner of HTC Global? A. Madhava Reddy.</p>



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<p style="text-align: right;">22</p> <p>1 A. M-A-D-H-A-V-A, R-E-D-D-Y. 2 Q. To the best of your knowledge he's the only owner? 3 A. Yes. 4 Q. Besides content digitization or conversion, what other 5 businesses is HTC Global engaged in? 6 A. HTC has several other businesses in terms of 7 publication development and management. So 8 software 9 application support, software product development, 10 business intelligence services, mobility services and 11 legacy modernization services. 12 Q. Do you have an estimate as to what portion of HTC's 13 business is related to content digitization or 14 conversion? 15 A. It's maybe less than 5 percent. 16 Q. How many employees does HTC Global has? 17 A. Close to 6,000. 18 Q. Do you know how many of them are in the United 19 States? 20 A. About 850. 21 Q. Are the rest in India? 22 A. Mostly in India, but a few other countries. 23 Q. Are there any individuals at HTC Global involved in 24 content digitization or conversion that are located in 25 countries other than the United States or India? 26 A. Not that I'm aware of, no.</p>	<p style="text-align: right;">24</p> <p>1 Q. Anything else that you're aware of? 2 A. No. 3 Q. What is content conversion? 4 A. Basically converting a document or -- yeah, 5 converting 6 any content or any document from one format to 7 another 8 format and making it available in an electronic -- in 9 an electronic way. 10 Q. Do you know what format Public Resource would 11 provide 12 to HTC Global for the work that HTC Global did for 13 Public Resource? 14 A. Yeah, usually PDF -- digital PDF format or image 15 format. 16 Q. By image format is that the TIF image or something 17 else? 18 A. Yeah, something other, TIF or JPEG, some image 19 format. 20 Q. What is your understanding of the instructions that 21 Public Resource provided if any to HTC Global 22 regarding the work that HTC Global did for it? 23 A. Public Resource wanted us to -- to convert it -- 24 convert the content in a format whereby it is 25 available as a text or images are tagged and make it 26 available in an output format like an HTML.</p>
<p style="text-align: right;">23</p> <p>1 with its content digitization or conversion? 2 A. Rarely we do. 3 Q. Do you know if HTC Global used any independent 4 contractors for content digitization or conversion for 5 Public Resource? 6 A. No. 7 Q. You don't know? 8 A. I don't know, no. 9 Q. Did you tell me before you've never spoken to 10 Mr. Malamud? 11 A. No, I haven't spoken to him. 12 Q. Have you ever exchanged emails with him? 13 A. Not that I can recall, no. 14 Q. So you're not aware of any communications between 15 you 16 and Mr. Malamud ever? 17 A. That's correct. 18 Q. Do you know who the primary contacts are for 19 Mr. Malamud at HTC Global? 20 A. One was Hemant, the business development director 21 here; and the other one was Natraj from India. 22 Q. Do you know what services HTC has provided to 23 Public 24 Resource? 25 A. Yes. 26 Q. What services has it provided?</p>	<p style="text-align: right;">25</p> <p>1 A. Yes, mostly that was the -- that was the direction. 2 Q. And was the intent to make all the text from the TIF 3 or PDF file be copied word for word into the HTML 4 code? 5 A. Yes, the text conversion, correct. 6 Q. Is there anything more to text conversion as you use 7 that term than copying the text in one format and 8 making it in another format? 9 A. No. 10 Q. And what would you do for Public Resource with 11 respect 12 to images? 13 A. We would just tag them; meaning if there's an image 14 on 15 a PDF, we would extract that image from the PDF and 16 provide a tag so that it is identifiable as an image 17 that particular piece. 18 Q. So HTC Global would not do any conversion for 19 images? 20 A. No. 21 Q. It would just take basically a copy of the image in 22 the TIF file, for example, and drop it into the HTML 23 code? 24 A. That's correct. 25 Q. With a tag to identify this as an image? 26 A. We would actually just tag it so then it can be -- and</p>



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<p style="text-align: right;">26</p> <p>1 bring it into HTML format.</p> <p>2 Q. Do you have any understanding as to what Public</p> <p>3 Resource did with those images after you returned the</p> <p>4 HTML code with the copied text plus the tagged</p> <p>5 image?</p> <p>6 A. No.</p> <p>7 Q. Did you inquire with any of the folks at HTC Global</p> <p>8 to</p> <p>9 determine what knowledge they had on that subject?</p> <p>10 A. Yeah, recently I reviewed the articles on that, which</p> <p>11 basically they were making it available on their</p> <p>12 website for individuals or companies to search in the</p> <p>13 public domain.</p> <p>14 Q. Do you know if the image portion of the files that</p> <p>15 were transmitted from HTC Global to Public Resource</p> <p>16 were altered in any way prior to being posted on the</p> <p>17 internet?</p> <p>18 A. No, we have not altered.</p> <p>19 Q. They were not altered?</p> <p>20 A. Correct.</p> <p>21 Q. Are you familiar with a company called Point B</p> <p>22 Studios?</p> <p>23 A. No.</p> <p>24 Q. Are you aware of any other entity that helped</p> <p>Public.Resource.Org in connection with any digital</p> <p>conversion or content conversion?</p>	<p style="text-align: right;">28</p> <p>1 MR. COUTILISH: Just to clarify the</p> <p>2 question. You're talking about all of the customers</p> <p>3 of HTC at all times?</p> <p>4 MR. FEE: Yeah, this is a general question.</p> <p>5 MR. COUTILISH: Yeah, at any time, all the</p> <p>6 customers, you're asking this gentlemen whether he</p> <p>7 knows whether there's an indemnification provision?</p> <p>8 MR. FEE: Yeah.</p> <p>9 Q. Are you aware of any of them? How about that?</p> <p>10 Why</p> <p>11 don't we start there.</p> <p>12 A. In general in the contract, yes.</p> <p>13 Q. Do you know whether there's any indemnification</p> <p>14 agreement between Public Resource and HTC Global?</p> <p>15 A. There wasn't any.</p> <p>16 Q. Do you have an understanding as to why the Public</p> <p>17 Resource relationship is different than the general</p> <p>18 practice at HTC regarding indemnification?</p> <p>19 A. No, we were given the purchase orders to convert or</p> <p>20 to</p> <p>21 carry out the work and we worked on the purchase</p> <p>22 orders.</p> <p>23 Q. That differs from your ordinary practice?</p> <p>24 A. Usually most customers sign the master services</p> <p>25 agreement.</p> <p>26 Q. And the master services agreement is where the</p>
<p style="text-align: right;">27</p> <p>1 Q. Were there any communications between HTC Global</p> <p>2 and</p> <p>3 Public Resource regarding whether or not it was legal</p> <p>4 to make these electronic copies of files?</p> <p>5 A. No, we had no communication on that.</p> <p>6 Q. Has there ever been a discussion that you're aware of</p> <p>7 within HTC Global regarding when or under what</p> <p>8 circumstances it's legal for HTC Global to make</p> <p>9 electronic copies or conversions of copyrighted works?</p> <p>10 A. Yeah, we are aware of that, but in general it is the</p> <p>11 clients who secure the material who deal with the --</p> <p>12 deal with the copyright aspects. HTC does not deal</p> <p>13 with the copyright aspects because we don't hold or we</p> <p>14 don't retain or we don't do anything with that</p> <p>15 content. It's given back to the client.</p> <p>16 Q. Is there any system in place at HTC Global to ensure</p> <p>17 that its customers or clients have appropriate</p> <p>18 permissions to make copies of any files before HTC</p> <p>19 Global engages in the copying process?</p> <p>20 A. No, that onerous is on the customer.</p> <p>21 Q. Does HTC Global has indemnification agreements</p> <p>22 with</p> <p>23 its customers in the event that its customers</p> <p>24 improperly ask HTC Global to copy something that's</p> <p>protected by copyright law?</p> <p>MR. COUTILISH: You're asking --</p>	<p style="text-align: right;">29</p> <p>1 A. That's correct.</p> <p>2 Q. Are you aware of any discussions with Public</p> <p>3 Resource</p> <p>4 regarding a master services agreement?</p> <p>5 A. I know we had initially talked about it with them, but</p> <p>6 then they said rather than that we'd rather do the</p> <p>7 work based on the purchase order.</p> <p>8 Q. Are you aware of any explanation that was offered by</p> <p>9 Public Resource as to why they --</p> <p>10 A. Primarily --</p> <p>11 Q. -- preferred the master services agreement --</p> <p>12 THE COURT REPORTER: I'm sorry.</p> <p>13 MR. FEE: Yeah, there we go.</p> <p>14 Q. Let me finish. I'm sorry.</p> <p>15 A. Sure.</p> <p>16 Q. I had a little pause in there, which I'm sure was</p> <p>17 confusing.</p> <p>18 Are you aware of any discussion with Public</p> <p>19 Resource regarding the reasons why it preferred to</p> <p>20 engage HTC Global via a purchase order as opposed to</p> <p>21 the master services agreement?</p> <p>22 A. There's the simplicity of doing the work because it</p> <p>23 was a small piece of work.</p> <p>24 Q. Are you aware of any discussions between HTC</p> <p>Global</p> <p>and anybody at Public Resource regarding whether or</p>

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<p style="text-align: right;">30</p> <p>1 copies that it was requesting to be made? 2 A. No. 3 Q. Have there been any discussions between HTC Global and 4 Public Resource regarding an indemnification agreement 5 between the parties since you became aware of this 6 lawsuit? 7 MR. COUTILISH: Objection, I believe that's 8 asked and answered. Go ahead, answer if you can. 9 A. Sorry, can you repeat the question? 10 Q. Sure. Since you've become aware of this lawsuit have 11 there been any communications with Public Resource 12 regarding indemnification? 13 A. Not that I'm aware, no. 14 Q. Is Public Resource paying for HTC's legal 15 representation in connection with the subpoena? 16 A. No. 17 Q. Besides the individuals that you've already identified 18 during your deposition this morning, can you identify 19 any other specific persons that were involved in HTC 20 Global's relationship or work for Public Resource? 21 A. No, I'm not aware of any other. I'm sure there would 22 be people who worked in India, but I haven't worked 23 with them. 24 Q. Would all of the content digitization that was done by</p>	<p style="text-align: right;">32</p> <p>1 Q. Do you have knowledge regarding whether or not most of 2 the persons in that town are native English speakers? 3 A. What do you mean by native English speakers? They do 4 speak English as a second -- most of them speak 5 English as a second language. 6 Q. It's a second language? 7 A. Yes. 8 Q. What is the primary language in that town? 9 A. Tamil, T-A-M-I-L. 10 Q. What mechanism is in place at HTC to determine whether 11 or not the persons involved in content digitization 12 have I think you used the term reasonable English 13 capabilities? 14 A. Oh, I'm sure there are some entrance tests they go 15 through, but I'm not aware of exact tests what they 16 do. 17 Q. Are you aware of any non-HTC employees who were 18 involved in the content digitization for Public 19 Resource? 20 A. No. 21 Q. Would HTC be the entity that actually posted the 22 content that was digitized on the internet so it would 23 be publicly available?</p>
<p style="text-align: right;">31</p> <p>1 A. Yes. 2 Q. Are you knowledgeable regarding the hiring policies 3 and procedures for the persons who do that type of 4 work? 5 A. Broadly, yes. In general HTC policies, yes. 6 Q. What can you tell me regarding the hiring policies or 7 requirements for persons who do content digitization 8 in India? 9 A. We have a hiring process in place which whereby we 10 screen the employees, review their resumes, personal 11 interviews, they go through the training and the 12 reference checks, we bring them on board. 13 Q. Is there any requirement that they have a particular 14 level of educational background? 15 A. Yes, they have to at least have a high school degree 16 and reasonable English communication. 17 Q. So they don't need to be native English speakers? 18 A. No. 19 Q. Do you have any idea what portion of the persons who 20 do content digitization for HTC are native English 21 speakers? 22 A. I don't know. 23 Q. Where in India are HTC's content digitization 24 capacities located? 25 A. Chennai; Chennai, India. C-H-E-N-N-A-I.</p>	<p style="text-align: right;">33</p> <p>1 completed their content digitization? 2 A. The files were FTP'd back to PRO on the location we 3 had they provided us. 4 Q. Just so the record's clear, PRO is 5 Public.Resource.Org? 6 A. Yes. 7 Q. Do you know if there were any written instructions 8 that were provided by Public Resource to HTC regarding 9 how to make the copies from the PDFs or TIFs into HTML 10 format? 11 A. There were on and off communication to clarify how it 12 should be done, but that being a very simple process 13 HTC is in general aware of how that happens so we had 14 provided -- in our statement of work we provided a 15 process, all the steps that would be carried out by 16 HTC. 17 Q. Do you know what quality assurance measures were taken 18 if any by HTC to ensure that the HTML files were 19 accurate copies of the text and the image files that 20 were provided to HTC by Public Resource? 21 A. Yeah, typically there is a quality assurance team that 22 validates that the text is converted properly, they</p>

<p style="text-align: right;">34</p> <p>1 does that.</p> <p>2 Q. Is that group also located in the same town in India?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know if the requirements for the quality</p> <p>5 assurance personnel are any different from the persons</p> <p>6 who do the initial digital content conversion?</p> <p>7 A. I don't know that, no.</p> <p>8 Q. Do you know if the quality assurance persons are</p> <p>9 native English speakers?</p> <p>10 A. They are all -- typically in India you would see most</p> <p>11 Indians would have English as a second language not</p> <p>12 as</p> <p>13 a first language.</p> <p>14 Q. Did HTC have a discussion with Public Resource at</p> <p>15 any</p> <p>16 point in time about whether or not it would double key</p> <p>17 or triple key these standards?</p> <p>18 A. Yes.</p> <p>19 Q. What do you know about that communication or</p> <p>20 communications?</p> <p>21 A. We had submitted a proposal initially for triple key</p> <p>22 data entry. Obviously the -- I mean, it's more</p> <p>23 accurate, but there is a higher cost so we went with</p> <p>24 the double key entry approach.</p> <p>25 Q. Can you describe what double key is?</p> <p>26 A. In the case of double key there are two operators who</p>	<p style="text-align: right;">36</p> <p>1 PRO4964 through 65.</p> <p>2 Let me know when you've had a chance to</p> <p>3 review that.</p> <p>4 A. Yeah.</p> <p>5 Q. First of all, can you identify this as an email from</p> <p>6 Mr. Talwalkar at HTC to Mr. Malamud?</p> <p>7 A. Yes.</p> <p>8 Q. Towards the top of the first page you see there's a</p> <p>9 description of the accuracy of double key compare and</p> <p>10 triple key compare?</p> <p>11 A. Yes.</p> <p>12 Q. Can you tell me first of all what the number means in</p> <p>13 the accuracy column for both of those?</p> <p>14 A. That means that the conversion rate -- so if you have,</p> <p>15 let's say, 1,000 characters being entered, that means</p> <p>16 with triple key you could achieve an accuracy whereby</p> <p>17 only 3 characters could be wrong and with double key</p> <p>18 you would achieve an accuracy whereby up to 49</p> <p>19 characters could be wrong. Meaning it's a tolerance</p> <p>20 for quality. Doesn't necessarily mean they are wrong,</p> <p>21 but it's a tolerance that you would have.</p> <p>22 Q. Do you know how HTC arrived at those accuracy</p> <p>23 figures?</p> <p>24 A. We have an operational metrics whereby when the</p> <p>25 quality control people catch issues or sometimes</p> <p>customers provide feedback, we are able to track that.</p>
<p style="text-align: right;">35</p> <p>1 extracted by the OCR and validate as long as their</p> <p>2 entries tally. That means the text is accurate. If</p> <p>3 the entries don't tally, then there are exceptions and</p> <p>4 that's where the quality assurance person could look</p> <p>5 into it, validate and update the -- update the text</p> <p>6 correctly.</p> <p>7 Q. How does that differ from triple key?</p> <p>8 A. In the case of triple key you have three operators who</p> <p>9 do the data entry or the correction, and again, they</p> <p>10 would tally and look at that. There is a higher rate,</p> <p>11 higher accuracy rate because of that.</p> <p>12 Q. And it's your understanding that HTC proposed triple</p> <p>13 key compare and Public Resource refused to do that</p> <p>14 and</p> <p>15 opted for double key compare?</p> <p>16 A. That's correct. HTC did not -- I don't know whether</p> <p>17 HTC proposed or PRO asked for it, but eventually it</p> <p>18 was done with double key. We had submitted a</p> <p>19 proposal</p> <p>20 is what I know.</p> <p>21 Q. The initial proposal was for triple key?</p> <p>22 A. Correct.</p> <p>23 (Marked for identification</p> <p>24 Deposition Exhibit No. 2.)</p> <p>25 Q. I'm going to hand you what's been marked as Exhibit</p> <p>26 2.</p>	<p style="text-align: right;">37</p> <p>1 Q. So this accuracy number is the accuracy of the final</p> <p>2 work that's delivered to the customer?</p> <p>3 A. Yes.</p> <p>4 Q. So if you were to do double key compare, HTC would</p> <p>5 expect there to be 49 mistakes out of 10,000</p> <p>6 characters or out of 1,000 characters?</p> <p>7 A. Forty-nine out of 1,000, yeah, yes.</p> <p>8 Q. Okay. And that's even after you've compared the</p> <p>9 double entry from both sides, gone through the QA</p> <p>10 process?</p> <p>11 A. I'm sorry, not 49 -- 49 out of 10,000, you're right,</p> <p>12 yeah.</p> <p>13 Q. Okay. But you would expect 49 mistakes out of</p> <p>14 10,000</p> <p>15 characters even after you've done the double keying,</p> <p>16 compared them both and gone through HTC's QA</p> <p>17 process?</p> <p>18 A. It's not the expectation, but that is the maximum</p> <p>19 tolerance. You could achieve 100 percent accuracy as</p> <p>20 well, but there could be a tolerance of 49 -- 49</p> <p>21 characters for every thousand.</p> <p>22 Q. Is the 99.51 percent the mean for the work that's been</p> <p>23 examined by HTC?</p> <p>24 A. Yes.</p> <p>25 Q. So there could be -- 49 characters would be the</p> <p>26 average case, there could be perfect, or there could</p>

<p style="text-align: right;">38</p> <p>1 A. Possible, but that's unlikely. 2 Q. Do you know if the distribution of mistakes in HTC's 3 process is evenly distributed? 4 A. Usually we have very low error rate, so it's very 5 unusual that you'd have an error rate like that. We 6 wouldn't be in business otherwise. 7 Q. Okay, but you've just told me that based on the review 8 of HTC's systems, that they do wind up with a 99.51 9 average accuracy rate; correct? 10 A. There is the -- as I said, there is a tolerance. It 11 doesn't mean that's always the reality. Reality could 12 be it's 100 percent. This is only a tolerance 13 available to you that if you made that much mistake, 14 it's still okay. 15 Q. Okay. So then if HTC were to propose 99.51 percent 16 accuracy with this double key compare and Mr. Malamud 17 accepted that, should he expect anything more than or 18 less than a 99.51 percent accuracy rate? 19 A. He could expect more. 20 Q. Why should he expect more than what you've 21 identified 22 here? 23 A. Because usually, as I said, this is the lowest it can 24 be, this is the lowest it can go to. So 49 percent is your top or .49 percent is your tolerance.</p>	<p style="text-align: right;">40</p> <p>1 Compare Data Entry Process. 2 Can you identify that document? 3 A. Yes. 4 Q. What is it? 5 A. It's a Double Key and Compare Data Entry Process for 6 HTC. 7 Q. I think earlier you were talking about a document that 8 you were aware of that explained HTC Global's double 9 key process. Is this what you were referencing? 10 A. Yeah. 11 Q. Was Exhibit 3 provided to Public Resource? 12 A. I don't recall. 13 Q. Would Exhibit 3 typically be provided to customers 14 who 15 were having double key conversion done? 16 A. It's not part of customer documentation, it's part of 17 more of internal process that is followed, but some of 18 these items, if they're related to the customer, 19 typically those are provided in the proposal. 20 Q. So what is the purpose of Exhibit 3? 21 A. It's more of an internal process and if customer wants 22 to know how we're doing it, then we'd share with the 23 customer. 24 Q. Who would use Exhibit 3 within HTC Global? 25 A. It's internal team for training, for example, the</p>
<p style="text-align: right;">39</p> <p>1 double keying at HTC? 2 A. No, I don't know that. 3 Q. You know it's not 100 percent; right? 4 A. It's not 100 percent. 5 Q. And you do know that the triple key compare is more 6 accurate at HTC than double key? 7 A. Yes. 8 Q. And Mr. Malamud selected double key compare? 9 A. Yes. 10 Q. Do you know why Mr. Malamud selected double key 11 compare? 12 A. I don't know about his reason, but typically clients 13 do that because it's a lot more expensive to do triple 14 key compare. 15 Q. Are you aware of any communications between HTC 16 and 17 Mr. Malamud regarding why he selected double key 18 compare? 19 A. I don't recall any communication. 20 Q. I should have said this at the start, but if at any 21 time you want to take a break, just let me know. 22 A. That's fine, sure. 23 (Marked for identification 24 Deposition Exhibit No. 3.) 25 Q. I'm going to hand you what's been marked as Exhibit 3.</p>	<p style="text-align: right;">41</p> <p>1 they would have an orientation to this. 2 Q. The operators, are they trained in English? 3 A. Yeah. 4 Q. So all the training documents are also in English? 5 A. Yes. 6 Q. Does Exhibit 3 accurately describe the process that 7 was used for HTC's work for Public Resource? 8 A. Yes. 9 Q. Is there anything that is described in Exhibit 3 that 10 was not done in connection with the Public Resource 11 work? 12 A. Not that I know of, no. 13 Q. Are you aware of anything extra that was done to 14 ensure the accuracy of the work done for Public 15 Resource that's not described in Exhibit 3? 16 A. Not that I'm aware of, no. 17 Q. Now, when you were describing the double key 18 process 19 earlier, I think you said that there would be two 20 operators and they would either rekey something or 21 start with an OCR of an image file; is that right? 22 A. Uh-huh. 23 Q. You have to answer yes or no for the court reporter. 24 A. Yes, yes. 25 Q. Okay. Do you know whether or not the Public Resource</p>

<p style="text-align: right;">42</p> <p>1 OCR process?</p> <p>2 A. The decision on that really depends on the quality of</p> <p>3 the image. So if you have a good image quality and if</p> <p>4 OCR does a good job of converting and there are very</p> <p>5 few errors, then operators would validate and the QC</p> <p>6 would validate. If the image quality is bad, then</p> <p>7 they would do the double key entry as well.</p> <p>8 Q. How do you determine at HTC whether or not the</p> <p>OCR has</p> <p>9 done a good job at character recognition?</p> <p>10 A. It's the quality of the image usually, which typically</p> <p>11 with the experience of the operators they know -- the</p> <p>12 scan operators would know that the image is bad and it</p> <p>13 would have to be rekeyed and that's what happens.</p> <p>14 Q. In the case of Public Resource did HTC ever receive</p> <p>15 paper documents?</p> <p>16 A. No.</p> <p>17 Q. So HTC was never scanning anything; correct?</p> <p>18 A. No.</p> <p>19 Q. So for Public Resource, did HTC first run an OCR</p> <p>20 software on every image that it received?</p> <p>21 A. I don't know that part whether we ran it on every</p> <p>22 major part of the image, I don't know.</p> <p>23 Q. Would the first step in the work that was done for</p> <p>24 Public Resource ordinarily be running OCR software</p> <p>on</p>	<p style="text-align: right;">44</p> <p>1 specifically with respect to the three plaintiffs'</p> <p>2 standards at issue in this case?</p> <p>3 A. The sorry?</p> <p>4 Q. Plaintiffs, ASTM, NFPA or ASHRAE, do you know</p> <p>anything</p> <p>5 more what was done with respect to their standards</p> <p>6 than you do about the general work done for Public</p> <p>7 Resource?</p> <p>8 A. No.</p> <p>9 Q. Did you make any efforts to try to determine whether</p> <p>10 or not, for example, the ASTM standards were first</p> <p>11 OCR'd or if they were first independently keyed by two</p> <p>12 operators?</p> <p>13 (Discussion held off the record.)</p> <p>14 MR. FEE: There was a question. Would you</p> <p>15 read that back?</p> <p>16 (Record read back as requested.)</p> <p>17 A. No, I haven't made any specific efforts to find out</p> <p>18 which documents were keyed or which documents</p> <p>19 were</p> <p>20 OCR'd.</p> <p>21 Q. Do you know anything more specific than what</p> <p>22 you've</p> <p>23 told me already about the quality assurance efforts</p> <p>with respect to the standards that were copied on</p> <p>24 behalf of Public Resource that were written by ASTM,</p>
<p style="text-align: right;">43</p> <p>1 A. Sorry, say that again.</p> <p>2 Q. Would the first step in the work for Public Resource</p> <p>3 ordinarily be that you would run OCR software on the</p> <p>4 image by two different operators and then compare</p> <p>5 them, the output?</p> <p>6 A. I think it depends on the project. Typically if</p> <p>7 you're really looking for -- it depends on the type of</p> <p>8 the document. If you're looking for a data entry to</p> <p>9 be done based on the type of the image, obviously they</p> <p>10 would do the data entry as a first step, compare the</p> <p>11 two. In some cases where there is, for example, if</p> <p>12 there are multiple images, then obviously you're not</p> <p>13 going to do the data entry, you're going to look at</p> <p>14 only part of the data which is there like the text,</p> <p>15 the headings, titles, all that and you do the data</p> <p>16 entry. If there is a lot of text and it is a clean</p> <p>17 image, which is scanned, they would typically do the</p> <p>18 OCR, compare and then do -- the two operators would</p> <p>do</p> <p>19 the data entry.</p> <p>20 Q. Did Mr. Malamud direct that all the work done for</p> <p>21 Public Resource had to actually be keyed by two</p> <p>22 separate operators as opposed to using the OCR</p> <p>23 process?</p> <p>24 A. I don't know that. I don't recollect.</p> <p>25 Q. Do you have any knowledge regarding what was done</p>	<p style="text-align: right;">45</p> <p>1 Q. Do you know how many standards HTC has copied</p> <p>2 on</p> <p>3 behalf of Public Resource that were owned by ASTM?</p> <p>4 A. No.</p> <p>5 Q. Do you know how many were copied that were owned</p> <p>6 by</p> <p>7 NFPA?</p> <p>8 A. No.</p> <p>9 Q. Do you know how many were copied that were owned</p> <p>10 by</p> <p>11 ASHRAE?</p> <p>12 MR. STOLTZ: Objection to form on the term</p> <p>13 owned.</p> <p>14 Q. You can answer.</p> <p>15 A. No, I don't know.</p> <p>16 Q. Are you aware of any instructions from Public</p> <p>17 Resource</p> <p>18 regarding the work that HTC did that were made orally</p> <p>19 and that aren't reflected in any of the documents that</p> <p>20 were produced in this case?</p> <p>21 A. No.</p> <p>22 Q. What knowledge if any does HTC Global have</p> <p>23 regarding</p> <p>24 how Mr. Malamud obtained the images that were</p> <p>25 eventually sent for conversion?</p> <p>26 A. We have no knowledge.</p> <p>27 Q. How did HTC Global receive the images from Public</p>



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<p style="text-align: right;">46</p> <p>1 Q. That was a Public Resource site?</p> <p>2 A. Yes.</p> <p>3 Q. So you're aware of at least some instances where an</p> <p>4 image was posted on some internet site by</p> <p>5 Public Resource and then you were instructed to grab</p> <p>6 it and then convert it?</p> <p>7 A. Not -- not any other website. Either they were FTP'd</p> <p>8 to a server, to HTC server, or we were asked to pick</p> <p>9 it up from the Public Resource's website.</p> <p>10 Q. Is that the generally available Public Resource</p> <p>11 website or was it some password protected site?</p> <p>12 A. I don't know that.</p> <p>13 Q. Do you know which materials were pulled off of</p> <p>14 Public</p> <p>15 Resource's website directly?</p> <p>16 A. No, I don't know.</p> <p>17 Q. Were there ever instances in which Public Resource</p> <p>18 instructed HTC to copy ASTM standards just in part as</p> <p>19 opposed to the entire standard?</p> <p>20 A. I'm not aware of any such thing, no.</p> <p>21 Q. So as far as you're aware, every time that Public</p> <p>22 Resource asked HTC to copy one of ASTM's</p> <p>23 standards, it</p> <p>24 copied the entire standard?</p> <p>25 A. I don't know that. Whether it was partial or</p> <p>26 complete, I don't know.</p>	<p style="text-align: right;">48</p> <p>1 A. Yes.</p> <p>2 Q. Is this a document you were just referencing?</p> <p>3 A. Yes.</p> <p>4 Q. What is Exhibit 4?</p> <p>5 A. It's a Summary of Projects with Media.Org/ 6 Public.Resource.Org.</p> <p>7 Q. Did you have this document created for this matter?</p> <p>8 A. Yes.</p> <p>9 Q. Is the source of this information some sort of</p> <p>10 database that's ordinarily kept by HTC Global?</p> <p>11 A. It's typically from the invoicing, invoicing and the</p> <p>12 purchase orders.</p> <p>13 Q. So all the information contained in this document is</p> <p>14 information that's customarily retained by HTC Global</p> <p>15 in the course of its ordinary business?</p> <p>16 A. Yes.</p> <p>17 Q. Now, does this indicate how many characters were</p> <p>18 converted?</p> <p>19 A. Yeah, the total volume column is where I think that is</p> <p>20 -- is what I believe the number of characters</p> <p>21 converted or kilocharacters converted.</p> <p>22 Q. Now, maybe you can just walk me through each of the</p> <p>23 headings in this chart. The first one is SR, what</p> <p>24 does that refer to?</p> <p>25 A. It's more a serial number for the project.</p>
<p style="text-align: right;">47</p> <p>1 respect to any logos that were on standards that were</p> <p>2 authored by ASTM or the other plaintiffs in this case?</p> <p>3 A. I don't know in terms of that really what was done.</p> <p>4 Q. Do you know anything about the instructions from</p> <p>5 Public Resource regarding how HTC should treat</p> <p>6 graphics?</p> <p>7 A. I've seen some communication on that, but not that</p> <p>8 I'm</p> <p>9 aware of how it was converted.</p> <p>10 Q. Do you know if the graphics in the plaintiffs'</p> <p>11 standards were just tagged like you described sort of</p> <p>12 a general process earlier today?</p> <p>13 A. In general that is typically what we would do, because</p> <p>14 we have no means of converting or no means of doing</p> <p>15 any changes to the graphics.</p> <p>16 Q. Do you have any idea the number of characters that</p> <p>17 HTC</p> <p>18 has converted for Public Resource?</p> <p>19 A. I don't recall, but I think it's there in the document</p> <p>20 that was submitted.</p> <p>21 MR. FEE: I'm not sure this is what you're</p> <p>22 talking about, but I'll mark it nevertheless.</p> <p>23 (Marked for identification</p> <p>24 Deposition Exhibit No. 4.)</p> <p>25 Q. Marked as Exhibit 4 a two-page chart. It's entitled</p> <p>26 Summary of Projects with Media.Org/</p>	<p style="text-align: right;">49</p> <p>1 Q. Does WS mean something in that?</p> <p>2 A. It is work stream.</p> <p>3 Q. Okay. And then project name I assume is</p> <p>4 self-explanatory; right?</p> <p>5 A. Yep.</p> <p>6 Q. Where did the information in the column marked</p> <p>7 scope</p> <p>8 of the project come from?</p> <p>9 A. It would be typically from the purchase order and the</p> <p>10 proposal.</p> <p>11 Q. What is the source column?</p> <p>12 A. That is the format in which the material -- input</p> <p>13 material would come in.</p> <p>14 Q. And there appears to be three different types of</p> <p>15 sources. A raster PDF, a vector PDF and if you look</p> <p>16 on the back page, an image PDF. Can you tell me what</p> <p>17 the differences are between those three?</p> <p>18 A. Yeah, it's pretty technical, but raster PDF is a</p> <p>19 simpler version of the PDF, meaning this is usually it</p> <p>20 refers to the bitonal of the images and vector PDF</p> <p>21 represents higher resolution images so there's a lot</p> <p>22 more storage involved in vector PDF, a lot more</p> <p>23 clarity involved with vector PDF.</p> <p>24 Q. What about an image PDF?</p> <p>25 A. Where is the image?</p> <p>26 Q. That's on the back page.</p>

<p style="text-align: right;">50</p> <p>1 A. That would be the image; so raster would refer 2 typically to the characters, image would be a diagram. 3 Q. Okay. The next heading is output. 4 A. Yes. 5 Q. What does that refer to? 6 A. So that is the destination format in which the image 7 is -- or image content is provided back to the client. 8 Q. Okay. And there are a couple of different types of 9 outputs. One is HTML illustration images, one is just 10 HTML, then you have spreadsheet and PDFs, then you 11 have ASCII text files. 12 A. Correct. So those are the different types of formats. 13 HTML, illustration images, that goes together, and 14 spreadsheet. 15 Q. Do you have an understanding as to why Public 16 Resource 17 would be asking for different types of outputs for 18 these different projects? 19 A. No, I don't know their reasons. 20 Q. Skip over start month and end month and pricing unit 21 and unit rate, because I think they're all pretty 22 obvious. 23 The total volume as per pricing unit, I 24 think you said that was in kilobytes? 25 A. Kilocharacters, kilobytes, same. Q. Kilocharacters, okay. And the total invoice amount</p>	<p style="text-align: right;">52</p> <p>1 A. We did not make any copies or anything, we just 2 converted the format, provided it back to the 3 customer. 4 Q. Okay, well, you made a character for character 5 different file in a different file format; right? 6 A. Yes. 7 Q. So the -- all the text was exactly the same? 8 A. Yes. 9 Q. And all the images were exactly the same? 10 A. Correct. 11 Q. But you're saying that's not a copy? 12 A. I mean, HTC did not copy is all I'm saying. We're not 13 taking the material or copy or anything like that. 14 Converted, provided it back to the client. 15 Q. I'm still not sure I understand the distinction you're 16 making. 17 A. No, you used a word HTC copied. HTC did not copy 18 any -- 19 MR. STOLTZ: Objection to form. 20 THE WITNESS: Okay. 21 Q. You can go ahead. 22 A. HTC did not copy any material or retain any material 23 for HTC. 24 Q. Okay. Is it -- because you didn't retain it, you 25 returned it, is that what you're saying?</p>
<p style="text-align: right;">51</p> <p>1 should just be a mathematical equation then; right? 2 A. Correct. 3 Q. It's unit rate times the total volume? 4 A. Yes. 5 Q. Now, do you know which of these project names 6 would 7 cover the conversion project that was done related to 8 standards owned by ASTM or NFPA or ASHRAE? 9 A. I wouldn't know. 10 MR. STOLTZ: Objection to form regarding 11 the term owned. 12 Q. You don't know? 13 A. I don't know that. 14 Q. Do you know when HTC copied the ASTM, NFPA 15 and ASHRAE 16 standards on behalf of Public Resource? 17 A. We did not copy any standards, I want to correct that 18 statement. We just done the conversion of whatever 19 documents were provided back in the format in which 20 client had requested. 21 Q. I'm not sure I understand what you're saying. What 22 didn't you do? Are you saying that they're not 23 standards? 24 A. No, it's a document -- they might be standards -- Q. Okay. A. -- but it's a document provided to us by the customer.</p>	<p style="text-align: right;">53</p> <p>1 A. I'm not sure whether the copy is the right word for 2 that. 3 Q. Okay. But you made -- you took -- you made a new 4 file 5 first of all; right? 6 A. Reformatted. We don't create a file. We reformatted 7 the content from one format to another. 8 Q. Let me ask you this question. You get, let's say, a 9 PDF from Public Resource. What would the name be 10 on 11 that file? Is there a naming convention that you're 12 aware of? 13 A. I don't know. Something.PDF, yeah. 14 Q. Then you do your work, you make sure that every 15 character in the PDF is in HTML format, you save the 16 file as a different name; correct? 17 A. Yes. 18 Q. Okay, so you've now created a new file with all the 19 same content from the prior file; correct? 20 A. Right. 21 Q. And -- but you're saying that's not a copy, that's 22 what you're trying to tell me? 23 MR. STOLTZ: Objection, asked and answered. 24 Q. You can answer. A. Copy is when, to me, you're making multiple versions, you're storing somewhere like if you have a DVD,</p>



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<p style="text-align: right;">54</p> <p>1 making ten copies. That's what I understand by 2 copying. 3 Q. Okay. 4 A. This one -- and you used the word HTC, that's what I 5 was objecting to. 6 Q. So is it your position that if you make a copy of a 7 DVD, turn it into a flash drive, that's not a copy? 8 A. Yeah, as long as it's given back, it's reformatted, 9 given back to the customer in a reformatted manner. 10 Q. When did you first come to this understanding of the 11 distinction between reformatting and copying? 12 A. I don't know. I just came to based on your words, so 13 that's why the things you said HTC copied, that's what 14 I'm talking about. 15 Q. So you've never made this distinction before? 16 A. Didn't have to, no. 17 Q. So in the course of your 20 years at HTC, have you 18 ever told somebody before that HTC doesn't copy stuff, 19 it only reformats it? 20 MR. COUTILISH: Objection to the form of 21 your question. Mischaracterizes his answer. 22 Q. You can answer the question. 23 A. Can you, sorry, repeat the question? 24 MR. FEE: Can you read that back, please? 25 (Record read back as requested.)</p>	<p style="text-align: right;">56</p> <p>1 (A brief recess was taken.) 2 THE VIDEOGRAPHER: We're back on the 3 record 4 at 10:36. 5 (Marked for identification 6 Deposition Exhibit No. 5.) 7 BY MR. FEE: 8 Q. Going to hand you what's marked as Exhibit 5, which 9 is 10 an email from HTC team to Mr. Malamud Bates 11 labeled 12 PRO26049 through 50 and dated September 30th, 13 2013. 14 First of all, can you identify that as an 15 email from HTC to Mr. Malamud? 16 A. Yes. 17 Q. The email address from HTC team, do you know what 18 that 19 is? 20 A. Yeah, that's a group email address. 21 Q. Who is -- who are the members of that group? 22 A. It's typically the project team that is working on the 23 project. It would be -- would be that -- including 24 the project manager would be on that team. 25 Q. Did you review Exhibit 5 in connection with your 26 preparation for your deposition today? 27 A. Trying to recall. I do not -- I mean, I would have</p>
<p style="text-align: right;">55</p> <p>1 A. No, I haven't discussed that at all, no. 2 Q. Are you aware of any problems that HTC had in 3 trying 4 to convert the standards of ASTM, NFPA or 5 ASHRAE? 6 A. I'm not aware of any. 7 Q. In the double key process, if a page is missing from 8 any particular standard, how would the double key 9 process catch that? 10 A. Typically there is an inventory of the number of pages 11 which are input and there is output, so there is a 12 tally of the number of pages that are input and output 13 and the quality assurance team would catch that. 14 Q. Okay, so if Public Resource provides a 14-page PDF 15 to 16 HTC of a standard that's really 15 pages, your 17 organization at HTC would expect it to be 14 pages, 18 the output would be 14 pages, is there any way that 19 your organization would say this is missing page 15? 20 A. No, we have no means of knowing that. 21 Q. Okay. And the double key process would not catch 22 that? 23 A. No. 24 THE WITNESS: Can we take a break after a 25 couple of minutes or whenever? MR. FEE: Sure, we can take a break.</p>	<p style="text-align: right;">57</p> <p>1 Carl, we have completed conversion for the remaining 2 56 PDFs. And that sentence continues; right? And 3 then the next paragraph says, note the following PDFs 4 contain multiple documents; hence, we split the 5 documents and added suffix M to the filename. 6 Do you see that? 7 A. Yes. 8 Q. And then there's a series of what I assume are 9 filenames? 10 A. Correct. 11 Q. And those filenames all have -- start with ASTM? 12 A. Yes. 13 Q. And then they're all followed by a dot and then a B 14 and then a series of numbers and then an M; correct? 15 A. Yes. 16 Q. Do you know if that is a naming convention that was 17 used by HTC for copying ASTM standards? 18 MR. COUTILISH: Objection to the form of 19 the question, the word copying. Whether you're using 20 his definition or your prior definition. Answer if 21 you can. 22 A. I do not know whether those are -- whose file 23 conventions those are. Typically we would retain the 24 client's naming conventions. We don't change the 25 names.</p>

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58	<p>1 Q. Do you have a list of all of the files that you had 2 converted on behalf of Public Resource? 3 A. I do not know. 4 Q. Does HTC Global have such a list? 5 A. I doubt if we would have it now, no. 6 Q. If you had to figure out which specific ASTM 7 standards, for example, were converted by HTC 8 Global, 9 how could you go about doing that? 10 A. We wouldn't -- we wouldn't usually -- we don't retain 11 the content so we won't know which files were 12 converted. 13 Q. So after the job is complete, you retain no records of 14 which files have been converted? 15 A. That's correct. 16 Q. And that's true not just for Public Resource but all 17 the clients? 18 A. Yes. 19 Q. Do you know if the HTC team email address, whether 20 or 21 not its inbox or other file folders were searched for 22 ASTM references? 23 A. I do not know. We would typically search for PRO, 24 public relations communications, so that is why we wouldn't deal with ASTM or any such communications specific to PRO clients.</p>	60	<p>1 A. No. 2 Q. To the best of your knowledge were any person's 3 emails 4 searched for ASTM? 5 A. I do not know. 6 Q. Did you ask Mr. Talwalkar whether or not he 7 searched 8 his emails for references to ASTM? 9 A. I did not ask him. 10 Q. Do you know what a layout only job is? 11 A. Sorry, say that again. Layout? 12 Q. Layout only. 13 A. Layout only. I don't know that, no. 14 (Marked for identification 15 Deposition Exhibit No. 6.) 16 Q. Going to hand you what's marked as Exhibit 6. It's an 17 email from Mr. Malamud to HTC delivery notification 18 dated November 9, 2012. 19 First of all, can you identify Exhibit 6 as 20 an email from Mr. Malamud to HTC? 21 A. Yes. 22 Q. What person or persons would be receiving emails at 23 the email address 24 HTCdeliverynotification@HTCIndia.com? A. Typically this would be the team working on that project for converting the content. Project manager</p>
59	<p>1 MR. COUTILISH: Excuse me, for all 2 documents? 3 MR. FEE: Yes. 4 MR. COUTILISH: Of any type? 5 MR. FEE: If he knows. 6 A. I don't know about all documents. 7 Q. Okay. Do you know about any portion of HTC 8 Global's 9 document retention policy? 10 A. Usually the customer documents in a conversion like 11 this are retained as per the client needs, typically 12 for not more than three months. 13 Q. What about emails? 14 A. Email, I do not know the email retention policy. 15 Q. Do you know if your email, your personal email at 16 HTC, 17 has some sort of auto delete function? 18 A. No auto delete, no. 19 Q. What is your practice with respect to retaining emails 20 at HTC? 21 A. I retain last two -- two, three years' emails. 22 Q. Did you search your emails for any references to 23 ASTM? 24 A. I did not, no. 25 Q. Did you search your emails for any references to 26 NFPA 27 or ASHRAE?</p>	61	<p>1 Q. Do you know if any of those persons' emails were 2 searched for references to ASTM? 3 A. I don't know that. 4 Q. In the second sentence of this email you see it says, 5 these are already text PDFs so this is a layout only 6 not double key. 7 A. Yes. 8 Q. Can you explain to me what that means? 9 A. What I can guess from here is it is not a double key 10 entry but layout meaning it would most probably be 11 converted by OCR as the characters, so it would not be 12 a data entry job like the double key entry job. 13 Q. Do you have any way of knowing whether or not this 14 email refers to work on ASTM or NFPA or ASHRAE 15 standards? 16 A. It says work stream number 1, so whatever that work 17 stream refers to. 18 Q. And that is identified on Exhibit 4? 19 A. Yes. 20 Q. And work stream 1 says building codes data entry; do 21 you see that? 22 A. Yes. 23 Q. But you don't know what that entails; do you? 24 A. No. 25 Q. So you don't know if building codes data entry is --</p>

62	<p>1 relates to standards from NFPA or ASHRAE or 2 ASTM? 3 A. That's correct. 4 Q. What does HTC do to try to make sure that the files 5 that it receives from Public Resource in addition to 6 having all the exact same words also appear the same 7 way, if anything? 8 A. I guess I don't understand your question. 9 Q. For example, formatting of the page. If the PDF you 10 receive from Public Resource has, you know, a 12- 11 point 12 font in italics and how -- what efforts, if any, does 13 HTC Global do to try to match that font, match the 14 borders, match the margins, etc., if anything? 15 A. I'm not aware of matching the fonts or borders, but 16 our focus usually is on the content, meaning the text 17 and not necessarily the format of the document. 18 Q. So the goal is not to make your HTML file when 19 displayed look exactly like the PDF, it's just to make 20 sure that every single word is represented and the 21 same images are there? 22 A. It is not about that. It is more to do with what 23 formats are supported. A lot of times if you have a 24 formatting PDF, we're not doing any graphic design work around the documents, so we are picking up the text or the image and converting that. So if there is</p>	64	<p>1 which is the red white and blue certificate of 2 incorporation? 3 A. No. 4 Q. He then goes on to say, you may find a few of the 5 standards are too hard to read. If that is the case, 6 please just let me know and we will go onto something 7 else instead. Do you see that? 8 A. Yes. 9 Q. Are you aware of any instances where there was 10 difficulty reading any of the materials that 11 Mr. Malamud provided? 12 A. No, I'm not aware. 13 Q. Did you discuss whether or not there was any 14 problems 15 with any of the files that were received from 16 Public Resource with Mr. Talwalkar? 17 A. No. 18 (Marked for identification 19 Deposition Exhibit No. 8.) 20 Q. Going to hand you Exhibit 8, which is an email from 21 Sutbir, S-U-T-B-I-R, Randhawa -- 22 A. Randhawa, yeah. 23 Q. R-A-N-D-H-A-W-A, to Mr. Malamud dated May 26, 24 2011 and the Bates label PRO5092 through 94. Can you identify Exhibit 8 as an email</p>
63	<p>1 Q. Is there an effort to match the pagination from the 2 original PDF? 3 A. Yes. 4 (Marked for identification 5 Deposition Exhibit No. 7.) 6 Q. Going to hand you what's marked as Exhibit 7. It's an 7 email from Mr. Malamud to Mr. Talwalkar dated 8 February 9 25, 2012 at 11:29 a.m. 10 Can you identify Exhibit 7 as an email from 11 Mr. Malamud to Mr. Talwalkar at HTC? 12 A. Yes. 13 Q. Did you review this email -- 14 A. Yes. 15 Q. -- in preparing for your deposition? 16 A. Yes. 17 Q. Do you know whether or not this refers to any work 18 on 19 standards that were written by ASTM, ASHRAE or 20 NFPA? 21 A. No, I don't know which specific ones, no. 22 Q. In the second paragraph you see there's a reference to 23 a red white and blue certificate of incorporation? 24 A. Yes. 25 Q. Do you know what that is? 26 A. No.</p>	65	<p>1 A. Yes. 2 Q. Have you reviewed Exhibit 8 prior to your 3 deposition? 4 A. Yes. 5 Q. Can you explain to me generally what's going on in 6 this series of communications? 7 A. These are more of delivery instructions to process the 8 documents so there's nothing -- I do not understand 9 the technical content in them but more of delivery 10 instructions as to how the documents should be 11 formatted and what kind of quality assurance should be 12 done on those. 13 Q. Okay. 14 In particular at the top of this chain of 15 emails it looks like HTC made some sort of mistake. 16 Do you see that? 17 A. Yes. 18 Q. Do you know what the mistake was? 19 A. I do not know the mistake, no. 20 Q. And you can't tell from reading this document? 21 A. No, it's something to do with the -- either the page 22 numbers or the formatting of the document. So one of 23 the -- some process in the delivery might have a 24 mistake. 25 Q. Can you tell what files or works this relates to? 26 A. I cannot.</p>

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<p style="text-align: right;">66</p> <p>1 (Marked for identification 2 Deposition Exhibit No. 9.) 3 Q. Going to hand you a document marked as Exhibit 9 4 from 5 Mr. Malamud to 6 HTCdeliverynotification@HTCIndia.com 7 dated July 17th, 2012, Bates labeled PRO25945 8 through 9 46. 10 First of all, can you identify Exhibit 9 as 11 an email from Mr. Malamud to HTC? 12 A. Yes. 13 Q. Have you reviewed this document prior to today? 14 A. I think so, but I don't recall the content. 15 Q. Have you had a chance to review the document? 16 A. Yes. 17 Q. Can you tell me what's happening in this 18 communication 19 or series of communications? 20 A. It's primarily something to do with the formatting of 21 the document and how the tagging should be done. 22 Q. And this relates again to work stream number 1? 23 A. Yes. 24 Q. In Mr. Malamud's email at the top of the first page, 25 do you see he has a paragraph that starts a couple of 26 caveats and a list. Do you see that? 27 A. This one is a little bit unusual, but I can't recall</p>	<p style="text-align: right;">68</p> <p>1 particular table, just make a note of it and let me 2 know when you deliver it. Do you see that? 3 A. Yes. 4 Q. Are you aware of what if anything Mr. Malamud 5 intended 6 to do with these tables after you sent them to him? 7 A. No. 8 Q. Do you know what effort if any HTC Global made to 9 make 10 sure that tables were formatted properly in the files 11 that it converted for Public Resource? 12 A. I don't know. 13 Q. Does HTC retain any of the comparisons between the 14 two 15 double key files that it does in connection with the 16 double key process? 17 A. No, we don't retain any documents related to clients. 18 Q. Are you familiar at all with the content of any ASTM 19 standards? 20 A. No. 21 Q. Do you have any idea what they look like or if they're 22 scientific in nature? 23 A. I think they're scientific in nature is what I would 24 think. 25 Q. Is it more difficult or less difficult to convert scientific documents than it would be nonscientific</p>
<p style="text-align: right;">67</p> <p>1 to read. Do you see that? 2 A. Yes. 3 Q. Do you know whether or not any of these hard to read 4 documents were ASTM, ASHRAE or NFPA 5 standards? 6 A. No, I don't know. 7 Q. Number 3 it starts off saying, don't sweat the 8 formatting too much. Most of this stuff is tables. 9 Do you see that? 10 A. Yes. 11 Q. Do you know what that means? 12 A. So those are -- what I could guess is those are 13 typically the table formats or they need to be 14 converted into Excel rather than the text. 15 Q. Is that something that HTC would do for Public 16 Resource? 17 A. If it was part of the document conversion and if there 18 was an instruction to convert a table into Excel, we 19 would do that. 20 Q. Do you know if HTC Global actually did that at all 21 for 22 Public Resource? 23 A. Thought I seen some reference to that in the 24 communication. 25 Q. Now, after the don't sweat it part of number 3, Carl says, we're going to go back through it, try to get it</p>	<p style="text-align: right;">69</p> <p>1 Q. Going back to your expected error rate for double 2 keying, that was based upon HTC's general experience 3 in doing double keying; correct? Not scientific 4 conversions? 5 A. It was that -- the percentage that was quoted was for 6 this customer, the expectation of the accuracy rate. 7 Q. Okay, so that data is different than what you would 8 ordinarily provide a nonscientific customer? 9 A. I don't recall the percentages. It depends on the 10 client's expectations. A client would typically say 11 I'm around 99 percent accurate or I can live with 95 12 percent, so depending on the client needs we would 13 provide that quote. 14 Q. So you plug in the error rate whatever error rate's 15 requested by the purchaser? 16 A. Not error rate but accuracy rate. 17 Q. Okay. You plug in whatever accuracy rate's requested 18 by the customer for double keying? 19 A. Yeah, double -- 20 MR. STOLTZ: Objection to form. Not clear 21 what plug in means. 22 Q. You can answer. You already answered it once. 23 A. Yeah, the accuracy rate is typically -- there are some 24 industry date so, you know, typically 99 percent is 25 what you can get with a double key entry. If you want</p>

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70	<p>1 more than that, you would go for a triple key data 2 entry. So in this case this is based on what we 3 expect of the content. In this particular client, we 4 would quote that. And usually what happens is we 5 would do a test batch, so this particular client also 6 we would have done a test batch which would tell us 7 what accuracy we can achieve with double key entry 8 and 9 based on that we quote. 10 Q. Okay, was a test batch done for Public Resource? 11 A. Yes. 12 Q. And after going through that experience you told 13 Public Resource that they should expect there to be 49 14 characters wrong out of 10,000? 15 A. That's correct. 16 Q. And that was based upon what particular standards or 17 documents, if you know? 18 A. I do not know that. 19 Q. So -- but if it was a nonscientific standard or 20 document, you would expect an even higher error rate 21 with respect to the scientific documents? 22 MR. STOLTZ: Objection to form. 23 Mischaracterizes the testimony. 24 MR. COUTILISH: Same objection. 25 A. Yeah, with reference to scientific, it is more complex so there could be a higher rate, higher error rate.</p>	72	<p>1 with that logo? 2 A. We would convert that as it came on the document. 3 Q. Even if the logo was partly graphic in nature? 4 A. Yeah, if there was an image, we would convert that as 5 an image. 6 Q. So then you would take the exact image that was 7 provided by Public Resource and put it into your new 8 HTML file? 9 A. Correct. 10 Q. Are any mechanisms in place to prevent distortion of 11 those logos in that process? 12 A. We do not tamper with the image so whatever is the 13 image, we would tag that image and link it to the 14 document, so we do not do anything with the 15 processing 16 of the image. 17 Q. What mechanism is there, if any, to ensure that, for 18 example, the size of the image remains the same in 19 both files? 20 A. I do not know that. 21 Q. So you're not aware of any efforts to make sure that 22 the size remains the same? 23 A. That's correct. 24 Q. Did HTC have permission from ASTM to make 25 copies of any of ASTM's works?</p>
71	<p>1 Q. To the best of your knowledge do any of the HTC 2 employees who were doing the conversion have any 3 scientific background? 4 A. I do not know that. 5 Q. Is it fair to assume that most of them just have a 6 high school level of education? 7 A. I would not say most of them. That is the minimum 8 criteria. 9 Q. There's no requirement that anybody have any 10 scientific background to do conversion at HTC? 11 A. There's no such requirement, but there is always a 12 combination of graduates who come from science, 13 commerce and other disciplines. 14 Q. But you -- HTC made no effort to try to get their 15 persons with scientific backgrounds on this particular 16 conversion project? 17 A. I do not know that. 18 Q. Did any of the documents that HTC received from 19 Public 20 Resource contain trademarks owned by third-parties? 21 A. I do not know that. 22 Q. Do you know if any of the documents that HTC 23 received 24 from Public Resource contained ASTM trademarks? 25 A. I do not know. 26 Q. If there was a logo on a document that was received</p>	73	<p>1 PRO. 2 Q. So ASTM certainly didn't grant you any permissions 3 then? 4 A. Yeah, we had no communication with ASTM so we 5 had no 6 knowledge of dealing with ASTM for anything. 7 Q. Do you have any written permission from ASTM to 8 do 9 anything with their standards? 10 MR. COUTILISH: Objection, asked and 11 answered. Go ahead and answer again. 12 A. Like I said, we had no communication with ASTM. 13 Q. Do you claim to have a license from ASTM in any 14 way? 15 A. Same answer, we had no communication with ASTM. 16 MR. COUTILISH: Objection, calls for legal 17 conclusion. 18 Q. Has HTC made any royalty payments to ASTM for 19 any 20 copies that it made? 21 A. We have had no dealings with ASTM at all. 22 Q. Are you aware of any specific instructions from 23 Public 24 Resource as to how to handle any trademarks that were 25 in the files that they identified for conversion? 26 MR. STOLTZ: Objection, calls for a legal 27 conclusion as to the meaning of trademarks.</p>



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<p style="text-align: right;">74</p> <p>1 A. Yes. 2 Q. Okay. 3 MR. STOLTZ: Objection, calls for a legal 4 conclusion. 5 MR. COUTILISH: Same objection. 6 Q. Do you know if any of the materials that you received 7 from Public Resource contained copyright notices? 8 MR. COUTILISH: Objection, calls for a 9 legal conclusion. 10 A. I do not know. 11 Q. Just so we're clear. You've seen the C with a circle 12 around it before; do you know that symbol? 13 A. Yes. 14 Q. Have you seen any documents that you received from 15 Public Resource that had that symbol in it that you 16 were asked to convert? 17 A. I haven't seen any of those documents. 18 Q. If there was a C with a circle around it in any of 19 those documents, what would HTC do with respect to 20 that symbol in the conversion process? 21 A. We would convert it as it is. 22 (Marked for identification 23 Deposition Exhibit No. 10.) 24 Q. Going to hand you what's been marked as Exhibit 10. 25 It's an email from Mr. Malamud to HTC delivery</p>	<p style="text-align: right;">76</p> <p>1 unidentified Oregon team? 2 A. No. 3 (Marked for identification 4 Deposition Exhibit No. 11.) 5 Q. I'm going to hand you Exhibit 11, which is an email 6 from Mr. Malamud to HTC delivery notification dated 7 August 26, 2012 at 2:46 p m. 8 Can you identify this document as an email 9 sent by Mr. Malamud to HTC? 10 A. Yes. 11 Q. This starts out by saying, 55 more standards in folder 12 to HTC 20120826. Do you know what standards he 13 was 14 referencing at that point? 15 A. No. 16 Q. Do you know if they were standards that were 17 authored 18 by one of the plaintiffs in this case? 19 A. I do not know, no. 20 Q. Then he says, same instructions as 20120825. Then 21 he 22 said, if the text is in the file, use the new work 23 flow. If it is a scan, use the old double key. Do 24 you see that? 25 A. Yeah. Q. Do you know what the new work flow was?</p>
<p style="text-align: right;">75</p> <p>1 notification dated March 14, 2013 at 11:36 a m. 2 First of all, can you identify that as an 3 email sent by Mr. Malamud to HTC? 4 A. Yes. 5 Q. Can you describe generally what's going on in that 6 series of communications? 7 A. It's primarily about the uploading and the 8 downloading 9 of the files, of the documents that were sent by PRO 10 to HTC. 11 Q. You see in that document there's a reference to some 12 troubles with potentially converting tables? 13 A. Yes, point number 5. 14 Q. First of all, do you know what's the problem with 15 those conversions, if there were any at that time? 16 A. I don't know the problems, no. 17 Q. Then there's a reference to Mr. Malamud's Oregon -- I 18 don't remember the exact words, I don't have it in 19 front of me, Oregon something. Let me see. Oregon -- 20 to the Oregon team. Do you see that here? We'll have 21 our Oregon team worry about them. Do you know 22 what 23 that refers to? 24 A. No. 25 Q. Do you know who the Oregon team is? A. No, we don't know.</p>	<p style="text-align: right;">77</p> <p>1 in the file? 2 A. I think he's possibly referencing to some of the plain 3 text, the ASCII text in the file. 4 Q. At some point in time was there a change in the work 5 flow for Public Resource jobs? 6 A. Not that I know of. 7 Q. Does this email suggest that there was a new work 8 flow 9 at some point? 10 A. Yeah. 11 MR. STOLTZ: Objection, the email speaks 12 for itself. 13 Q. Have you communicated with anybody in preparing 14 for 15 this deposition to determine whether or not there were 16 any changes in the work flow for Public Resource 17 projects? 18 A. I haven't asked that specific question. 19 Q. Do you know how the work that Public Resource is 20 having HTC Global do is funded? 21 A. Sorry, say that again. 22 Q. Do you know how the work that Public Resource is 23 having HTC Global do is funded? 24 A. I believe it's funded through donations and -- Q. Do you know who the donors are? A. I don't know who the donors are, no.</p>

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<p>1 A. I remember reading an article which said Google was 2 one of the -- Google had funded, I believe. 3 Q. Is that the only one you can identify? 4 A. That's all I can recall. 5 (Marked for identification 6 Deposition Exhibit No. 12.) 7 Q. Going to hand you Exhibit 12. It's an email from 8 Mr. Malamud to HTC delivery notification dated 9 October 10 22nd, 2013 at 3:06 p.m. 11 Can you identify that as a series of emails 12 between Mr. Malamud and HTC? 13 A. Yes. 14 Q. Actually it's only one email, I misspoke. 15 Mr. Malamud says to HTC delivery 16 notification, thanks. I really appreciate all the 17 hard work. I don't have anything more for you right 18 now. My apologies - we're trying to figure out where 19 our next batch of money is coming from. 20 Do you see that? 21 A. Yes. 22 Q. Are you aware of any updates that Mr. Malamud has 23 provided to HTC regarding the next batch of money? 24 A. No. 25 Q. Do you know when the last -- what was the last job that HTC did for Public Resource?</p>	<p>1 chain of emails. After Mr. Malamud says thank you he 2 says, there were some missing pages where the sheet 3 feeder skipped. 4 Do you see that? 5 A. Yes. 6 Q. What do you understand that to mean? 7 A. So there are possibly pages missing in the document 8 or 9 in the PDF that Mr. Malamud sent us. 10 Q. Are you -- you're still not aware after seeing this of 11 any other instances where something like that has 12 happened? 13 A. I do not recall. 14 MR. COUTILISH: You're talking about 15 specifically for Public Resource? 16 MR. FEE: Yes. 17 MR. COUTILISH: Not for any other clients? 18 MR. FEE: Just for Public Resource. 19 A. I'm not aware of any other instances. 20 Q. Are you aware of any other instances where there's 21 been problems like that for clients other than Public 22 Resource? 23 A. Yes, that happens. It's common that during scanning 24 there are missed pages. 25 Q. Is it also common for there to be duplicates of the same page in a file?</p>
79	81
<p>1 A. I believe sometime in 2013, August, September. 2 Q. Have you had any communications with Mr. 3 Malamud 4 regarding additional work since that time other than 5 what's been marked as Exhibit 12? 6 A. No, I do not recall any communication. 7 MR. FEE: We need to change videotape so 8 why don't we take a short break. 9 THE WITNESS: Sure. 10 THE VIDEOGRAPHER: Off the record at 11 11:17. 12 (A brief recess was taken.) 13 THE VIDEOGRAPHER: Back on the record at 14 11:19. 15 BY MR. FEE: 16 Q. Are you aware of any instances where the image file 17 that HTC received was actually missing pages? 18 A. I'm not aware of any. 19 (Marked for identification 20 Deposition Exhibit No. 13.) 21 Q. Going to hand you Exhibit 13, which is an email from 22 Mr. Malamud to HTC delivery notification dated 23 January 24 2nd, 2013 at 11:21 a m. 25 Can you identify Exhibit 13 as an email from Mr. Malamud to HTC?</p>	<p>1 A. It's not so common. 2 Q. Have you encountered instances where that's 3 happened? 4 A. I don't know of any. 5 (Marked for identification 6 Deposition Exhibit No. 14.) 7 Q. Going to hand you Exhibit 14, which is another email, 8 this time from Mr. Malamud to Mr. Talwalkar, dated 9 July 17th, 2012 at 6:54 a m., Bates labeled PRO25943 10 through 44. 11 Can you identify Exhibit 14 as an email 12 from Mr. Malamud to Mr. Talwalkar at HTC? 13 A. Yes. 14 Q. I want to draw your attention to the bottom portion of 15 the first page of this document. Do you see there's 16 an email from Mr. Malamud to HTC dated July 16th at 17 7:39 p.m.? 18 A. Yes. 19 Q. The first sentence starts off saying, Thanks. Do you 20 think the last piece (the NFPA.NEC.2011.PDF) will 21 come 22 in next week or will be the week after? Do you see 23 that? 24 A. Yes. 25 Q. That filename, NFPA.NEC.2011.PDF, does that mean NFPA's National Electric Code from 2011?</p>



82	<p>1 Q. Do you know if that code was one of the codes that 2 was 3 converted by HTC on behalf of Public Resource? 4 A. I would know that that's a file based on this 5 communication. I don't know about the content of the 6 file. 7 Q. Did you ever ask anybody what was contained in the 8 files that were copied by HTC on behalf of Public 9 Resource regarding -- that were owned by ASTM, 10 NFPA or 11 ASHRAE? 12 MR. COUTILISH: Objection to form. The 13 question assumes legal conclusions. 14 A. No, I haven't asked. 15 Q. Did you make any effort to try to figure out whether 16 any ASTM standard was copied or converted by HTC 17 at 18 the request of Public Resource? 19 A. No, usually we don't deal with the -- with the -- with 20 the content that is -- I mean the subject matter of 21 the content, we don't deal with that. 22 Q. Do you have any idea what any of the content was 23 that 24 Public Resource asked to be converted by HTC? 25 A. Yes, we know those are building codes -- based on the names of the project or names of the documents, that</p>	84	<p>1 A. I've seen this, but I haven't reviewed the document in 2 detail. 3 Q. Why don't you review it and let me know when you're 4 ready to answer questions about it. 5 (Witness reviews document.) 6 A. Yes. 7 Q. Okay. Turning to page with Bates label PRO5059, 8 it's 9 the second page I think of the document; do you see 10 that? 11 A. Yes. 12 Q. I want to focus on the paragraph numbered 7 towards 13 the bottom; do you see that? 14 A. Yes. 15 Q. It says -- Mr. Malamud says, what are you using to 16 grab the illustrations? It says you're loosing, but I 17 think it probably meant you're losing a lot of 18 quality. 19 A. Yep. 20 Q. Do you know what's happening there? 21 A. So there is possibly an example of an illustration 22 that we're trying to convert and there may not be -- 23 it is not up to the expected quality so it could be a 24 diagram, it could be a table. 25 Q. Under what circumstances would HTC be converting illustrations as opposed to just dropping the image as</p>
83	<p>1 (Marked for identification 2 Deposition Exhibit No. 15.) 3 Q. Going to hand you Exhibit 15, which is an email from 4 Sutbir Randhawa -- 5 MR. COUTILISH: Randhawa. 6 MR. FEE: Randhawa. 7 MR. COUTILISH: No, dawa. 8 MR. FEE: Dawa. 9 Q. -- to Mr. Malamud, dated June -- no, September 21st, 10 2011 with an attachment, Bates labeled PRO5058 11 through 12 65. 13 Can you identify Exhibit 15 as an email or 14 series of emails between HTC and Mr. Malamud? 15 A. Yes. 16 Q. I want to draw your attention to first of all the 17 bottom of the page of Exhibit 15, first page. You see 18 it's an email from Mr. Malamud to Mr. Talwalkar? 19 A. Yeah. 20 Q. Then if you turn over to page 2, it continues that 21 email chain; do you see that? 22 A. Yes. 23 MR. STOLTZ: Excuse me, counsel. This is a 24 long document and I'd ask that you give the witness 25 time to review it. Q. Have you seen this document before?</p>	85	<p>1 is from one document into another? 2 A. Typically if it's a table, they would be expecting us 3 to convert that. If it is an image, obviously we're 4 not going to do anything with the image. 5 Q. And this is described as an illustration. 6 A. Yeah, could be anything. Could be an image, could 7 be 8 a table. 9 Q. Besides tables are you aware of any other 10 illustrations or images that were converted by HTC on 11 behalf of Public Resource? 12 A. I'm not aware of any. 13 Q. Do you know what the problem was with the quality 14 of 15 this conversion? 16 A. I don't know. 17 MR. STOLTZ: Objection to form. That 18 misstates the testimony. 19 Q. Is losing a lot of quality a problem? 20 MR. STOLTZ: Objection to form. 21 A. Yeah, it's a problem. It depends on the quality of 22 the image itself, so. 23 Q. Do you know how if at all this problem was resolved? 24 A. I don't know. 25 Q. Do you know that it was resolved? A. I don't know.</p>

<p style="text-align: right;">86</p> <p>1 it through to HTC's quality control efforts? 2 MR. STOLTZ: Objection to form. 3 Mischaracterizes testimony. 4 Q. You can answer. 5 A. No, I don't know how it went through it. 6 Q. That image would have gone through the quality control 7 process at HTC; correct? 8 A. Yes. 9 MR. FEE: I don't have any more questions 10 at this time. 11 I will note that there were some topics I 12 don't think you were able to answer and we reserve the 13 right to try to recall you on those topics we think 14 it's necessary. 15 Thane or Andrew, do you want to go? 16 MR. ZEE: Sure, this is Andrew Zee for 17 ASHRAE. I just had a few additional questions. 18 EXAMINATION 19 BY MR. ZEE: 20 Q. I believe you mentioned that HTC Global initially had 21 proposed a triple key compare process. Can you tell 22 me why HTC Global proposed a triple key compare 23 process? 24 A. Yeah, typically that would go with the quality aspects 25 with client desires a much higher quality, then you go</p>	<p style="text-align: right;">88</p> <p>1 conversion process? 2 A. In general clients provide the instructions. Now, I 3 do not know if it was different from one to another, 4 but with every work order usually the instructions -- 5 the instructions are provided in terms of the formats 6 as the documents differ. 7 Q. If the work order instructions that you would have 8 received cover the plaintiffs' standards from Public 9 Resource were general -- 10 A. Yeah, HTC's process that is there to convert is 11 definitely the generic process, so within that each 12 individual work stream may have different instructions 13 of formatting and how to tag and file naming 14 conventions and things like that. So that's very 15 typical of any project. 16 Q. Thank you. 17 I think you testified in response to 18 questioning from ASTM counsel that HTC Global did not 19 have any communication with ASTM? 20 A. That's correct. 21 Q. Did HTC Global have any communications with ASHRAE at 22 any time during the conversion process that HTC Global 23 performed?</p>
<p style="text-align: right;">87</p> <p>1 with a triple key and if it's expensive, then most 2 times customers come back to double key entry or 3 sometimes they may even not do the double key entry, 4 so it just depends. It's usually client's choice, not 5 HTC's. 6 Q. Did Public Resource ever provide any explanation to 7 HTC Global as to why it elected to use the double key 8 compare rather than triple key compare? 9 A. Thought I recall in one of the communications there 10 was the mention that we'll go with double key. I'm 11 not sure if there was a reference to any reasoning 12 behind it. 13 Q. Were you aware in the -- did you ever -- scratch that. 14 Did you ever receive instructions from 15 Public Resource to treat the conversion process 16 differently for any of the plaintiffs' standards that 17 were provided to you? 18 MR. COUTILISH: Objection to the form of 19 the question. Go ahead and answer if you can. 20 A. Sorry, would you be able to repeat the question? I 21 missed a few words. 22 Q. I'll withdraw the question and restate it. 23 Did Public Resource provide instructions to 24 HTC Global to treat any of NFPA, ASTM or ASHRAE's 25 standards differently from one another in the</p>	<p style="text-align: right;">89</p> <p>1 conversion process that it performed? 2 MR. STOLTZ: Objection, form. Calls for a 3 legal conclusion. 4 MR. COUTILISH: Same objection. 5 A. No, we haven't dealt with any of those organizations 6 directly. 7 Q. Did HTC Global ever receive any authorization from 8 Public Resource regarding permissions from any of the 9 plaintiffs: NFPA, ASTM or ASHRAE? 10 MR. STOLTZ: Objection to form. 11 A. No, we have not received any documentations to that 12 regard from anybody. 13 Q. Do you know how many of the plaintiffs' standards in 14 total HTC Global would have converted on behalf of 15 Public Resource? 16 A. No. 17 Q. Do you know how many of plaintiffs' standards were 18 provided by Public Resource to HTC Global? 19 A. No, we don't. 20 MR. ZEE: Thank you. Nothing further from 21 ASHRAE. 22 MR. REHN: Hello, this is Thane Rehn on 23 behalf of the NFPA and I've got a few questions for 24 you as well. 25 THE WITNESS: Sure.</p>

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<p style="text-align: right;">90</p> <p>1 EXAMINATION 2 BY MR. REHN: 3 Q. I'd like to start by going back to this issue of the 4 double keying the document. You said that generally 5 the triple keying is a more accurate way of converting 6 documents; right? 7 A. Yes. 8 Q. Is it the -- I believe you testified earlier that 9 documents containing scientific or technical 10 information are more difficult to convert accurately? 11 MR. STOLTZ: Objection, misstates the 12 testimony. 13 A. Yes, scientific in the sense where there are formulae 14 or there are mathematical equations, not the text part 15 of it. 16 Q. If there is -- does HTC Global generally perform 17 triple keying on scientific or technical documents? 18 A. Generally not. 19 Q. Why did HTC Global propose a triple keying on these 20 documents, the standards at issue here? 21 A. I believe that was initially requested by the client 22 for -- for achieving the higher accuracy or initially 23 they wanted to find at least the possibility of doing 24 it with the cost, the cost estimate. 25 Q. I'd like to go back to an exhibit that you looked at</p>	<p style="text-align: right;">92</p> <p>1 Q. Did Public Resource communicate to HTC Global that the 2 documents HTC Global was converting were going to be 3 released publicly? 4 A. I do not recall them specifically telling us that. 5 Q. Was HTC Global aware that the plan was for these 6 documents to be released publicly? 7 A. Yeah, in general, knowing the nature of the customer, 8 yeah. 9 Q. HTC Global did not receive any assurances from Public 10 Resource, let's just start with this document at issue 11 here, the NEC.2011, that Public Resource was 12 authorized to release it publicly? 13 MR. STOLTZ: Objection, asked and answered. 14 A. Yeah, we haven't received anything specific to that, 15 no. 16 Q. That applies to all of the standards from NFPA? 17 A. Yes. 18 MR. STOLTZ: Same objection. 19 Q. Is there an answer? 20 A. Yes. 21 Q. As to all of the standards for -- just to confirm. As 22 to all of the standards from NFPA, there was no 23 communication from Public Resource that it was</p>
<p style="text-align: right;">91</p> <p>1 previously. I believe it was Exhibit 14. 2 A. Okay. 3 Q. I believe that's the one that contains an email from 4 Carl Malamud to HTC delivery notification dated July 5 16th, 2012. 6 A. Okay. 7 MR. STOLTZ: No, that's not number 14, 8 counselor. 9 THE WITNESS: The bottom was probably. 10 That's what it's referring to. 11 MR. STOLTZ: Oh, excuse me, my mistake. 12 Q. It is Exhibit 14? 13 A. Yeah. Are we talking about 7:39 p m., July 16, 2012? 14 Q. I believe so. I may be looking at -- this is the one 15 that -- it's an email from Carl Malamud says, thanks. 16 Do you think the last piece will come in? 17 A. Yes. 18 Q. He says, we're getting a release date firmed up. Do 19 you see that? 20 A. Yeah. 21 Q. Do you understand the release date to be in reference 22 to the document labeled NFPP.NEC.2011.PDF? 23 MR. STOLTZ: Objection, the document speaks 24 for itself. 25 A. Yes, that's what I believed.</p>	<p style="text-align: right;">93</p> <p>1 MR. STOLTZ: Same objection. 2 A. That's correct, we don't have any specific 3 communication in that respect. 4 Q. And you also don't have any communication suggesting 5 that Public Resource was authorized to make copies of 6 these documents? 7 A. That's correct. 8 Q. And did HTC Global communicate with NFPA regarding any 9 authorizations to make copies of these documents? 10 A. No. 11 Q. Did HTC Global receive or attempt to receive any 12 permission from NFPA to make copies of these 13 documents? 14 A. No. 15 Q. Or to prepare them for public release? 16 MR. STOLTZ: Objection to form. 17 A. No, we -- we dealt directly with PRO. They provided 18 us the documents, we provided them back, back the 19 format. 20 Q. Did HTC Global have any internal discussions about the 21 copyright status of the NFPA standards? 22 A. No. 23 Q. Do you know how many NFPA standards HTC Global</p>

94	1 Q. You discussed earlier the document retention policies 2 and practices and with respect to the standards you 3 converted for Public Resource you didn't maintain 4 copies of those standards either in the form Public 5 Resource sent to you or in the converted form; is that 6 right? 7 A. That's correct. 8 Q. And is that consistent with HTC Global's common 9 practice? 10 A. Yes. 11 Q. Common practice is not to maintain copies either of 12 the documents you receive or the documents you 13 transmit back to clients? 14 A. Exactly. 15 Q. And is it consistent with HTC Global's common 16 practice 17 not to conduct any inquiry or discussion regarding the 18 copyright status of the works received from clients? 19 A. Yes. 20 Q. Do you know what the reasons that practice is? 21 A. Usually the clients are the ones who get the content, 22 they deal with the copyrights and we have no means of 23 knowing what copyrights clients have or what they 24 don't. Clients deal with that aspect typically. 25 Q. It's your understanding that the client maintains the responsibility for assuring that it has the	96	1 verbal authorization on the record. And you say yes? 2 MR. REHN: Yes. 3 THE COURT REPORTER: And Mr. Zee? 4 MR. ZEE: Yes, we will be. 5 THE COURT REPORTER: Mr. Stoltz? 6 MR. STOLTZ: Yes. 7 THE COURT REPORTER: And do you need a 8 copy? 9 MR. COUTILISH: Yes, we will need a copy. 10 THE COURT REPORTER: Thank you. 11 (A brief recess was taken.) 12 THE VIDEOGRAPHER: On the record at 12:02. 13 EXAMINATION 14 BY MR. STOLTZ: 15 Q. Thank you for your time today, Mr. Bhutada. 16 A. Thank you. 17 Q. I just have a few questions. 18 In general what types of documents does -- 19 do the teams that you supervise digitize? 20 A. Well, the documents vary really. They go into 21 manuscripts, newspapers, manuals, microfilms, 22 microfiche, scan images, all over the map, land 23 records. 24 Q. Are some of the documents that your teams digitize 25 technical documents?
95	1 appropriate copyright permission? 2 A. Yes. 3 Q. You would expect a client of HTC Global to comply 4 with 5 applicable copyright law? 6 A. Yes. 7 Q. Has HTC Global had any communications with 8 Public 9 Resource about this lawsuit since it was filed? 10 A. No. 11 Q. Has HTC Global been involved -- ever been involved 12 in 13 litigation regarding copyright of other documents it 14 has converted or copied for other clients? 15 A. No. 16 MR. STOLTZ: Just like to note for the 17 record that's outside the scope of the 30(b)(6) so -- 18 well, just like to note that for the record. 19 MR. REHN: I think that's all the questions 20 that I have. 21 MR. STOLTZ: I have some questions, but if 22 folks don't mind, I'd like to take a break. 23 THE VIDEOGRAPHER: Off the record at 24 11:53. 25 THE COURT REPORTER: Mr. Zee, Mr. Rehn, this is the court reporter. Are you going to order?	97	1 A. Can you clarify what do you mean by technical 2 documents? 3 Q. Would you characterize some of the work that your 4 teams do as digitizing technical documents? 5 MR. COUTILISH: Please define -- objection, 6 please define the word technical in the context of 7 your sentence. 8 Q. Well, earlier you characterized the documents that 9 were digitized for Public Resource as technical 10 documents so in the sense that you were using that 11 word before, would you characterize other work that 12 you have done for other clients as technical 13 documents? 14 A. Oh, maybe -- what I was referring to as the technical 15 documents was more to do with the technical 16 specifications of the work that we did for public 17 relations, not -- not necessarily the documents 18 specified by Public Resource. 19 Q. And I'm sorry, when you said public relations, did 20 you 21 mean to say Public Resource? 22 A. I'm sorry, Public Resource, yes, that was a mistake. 23 PRO, that's Public.Resource.Org. 24 Q. Do your teams digitize documents that contain 25 mathematical formulas? A. Yes.

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<p style="text-align: right;">98</p> <p>1 Q. Do your teams digitize documents that contain 2 scientific information? 3 A. Yes. 4 Q. Do your teams digitize documents that are 5 government 6 records? 7 A. Yes. 8 Q. Do your teams digitize documents that you would 9 characterize as legal documents? 10 A. Yes. 11 Q. Do your teams digitize documents for which accuracy 12 is 13 important? 14 MR. FEE: Objection, vague. 15 A. Yes. 16 Q. In your experience is it typical to use double keying 17 for technical documents, as you've used that term? 18 A. Yes. 19 Q. Is it typical in your experience to use double keying 20 for documents with scientific information? 21 A. I would say yes with a qualification. It usually 22 depends on the client, the budgets the clients have 23 available to convert and what kind of accuracy they're 24 looking at. 25 Q. About what proportion of your digitizing work of the 26 teams that you supervise use double keying?</p>	<p style="text-align: right;">100</p> <p>1 Q. So if a reviewer uses OCR, does the reviewer correct 2 any errors made by the OCR software? 3 MR. FEE: Objection, lack of foundation. 4 A. It depends. It depends on the nature of the 5 correction, the extent of the correction. If it's a 6 small correction, they have an ability to do it; if 7 it's a major correction, they would pass it back to 8 the data entry group. 9 Q. In such a case what would the data entry group do? 10 A. They would refer it back to -- they would look at the 11 type of the problem, whether it's related to the 12 image, if HTC is doing the scanning, in instances they 13 may try and rescan the image. If it's sent by the 14 customer, they would flag it as an exception to the 15 customer and send it back to the customer with the 16 problem. 17 Q. And the process that you've just described to me, was 18 that the process that HTC used for Public Resource? 19 MR. FEE: Objection, form. 20 A. That's correct. Yes. Basically there are multiple 21 processes depending on the type of content and we 22 described those in the document, which was there, 23 which we shared earlier, double key and compare 24 entry. 25 As you see, there is a description there by each 26 stream of work so those are the work stream 1, 2 and</p>
<p style="text-align: right;">99</p> <p>1 very large percentage. It's not more than 50 -- I 2 wouldn't say it is more than 50 percent. 3 Q. I'm sorry, 50, 5-0? 4 A. Yeah. 5 Q. About what proportion of your work is triple keying? 6 A. Very little if at all. Very, very small, small 7 percentage. 8 Q. What proportion of your work uses a single person to 9 key or OCR? 10 A. Majority of the work is usually scanning OCR and 11 QC. 12 More than 50 percent of the work would be without -- 13 without double key or triple key entry. 14 Q. If OCR is used -- I'm sorry, strike that. 15 If a reviewer uses OCR on a source page, is 16 it typical for that reviewer to compare the results of 17 the OCR against the image? 18 A. Yes. 19 Q. If a reviewer uses OCR, is it typical for the reviewer 20 to also manually key a portion of the page? 21 A. It depends. If there are small corrections, if the 22 volume of corrections is small, they would correct it. 23 If it is the entire page needs to be keyed in, then it 24 would be passed onto a different -- to a different 25 group, it would not be the reviewer himself or 26 herself.</p>	<p style="text-align: right;">101</p> <p>1 3. 2 Q. So I'm speaking now about the work that HTC did for 3 my 4 client, Public Resource. 5 A. Correct. 6 Q. Did -- in the course of that project when OCR was 7 used, did a reviewer check the results of the OCR 8 process for accuracy? 9 MR. FEE: Objection, vague. 10 A. Yes. 11 Q. If I could refer you back to the document that was 12 labeled 15. 13 Would you say this document describes a 14 process of creating HTML pages? 15 A. Yes. 16 Q. In your experience when using HTML, can there be 17 more 18 than one way to format a particular set of text? 19 MR. FEE: Objection, beyond the scope of 20 the notice. 21 Q. You can answer. 22 A. I didn't understand the question correctly. 23 Q. Well, withdraw the question and I'll ask -- I'll ask 24 this. 25 You've had a chance to read this email? 26 A. Yes.</p>



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<p style="text-align: right;">102</p> <p>1 concerns the formatting of pages? 2 A. Yes. 3 Q. Would you say the discussion in this document concerns 4 the accuracy of the text? 5 MR. FEE: Objection to form. 6 A. Some part of the discussion, yes. 7 Q. In general, speaking now in general, when the teams 8 that you supervise are digitizing documents for a 9 customer and the customer alerts you to a mistake, 10 what is HTC's typical response? 11 A. HTC would typically look back at the content, go back 12 to our content conversion team, look at the content, 13 check whether it is to do with the source -- source of 14 the image or is it somewhere around in the work flow 15 if there is an error, if it's an operator error or a 16 machine error or whatever or if the filename is missed 17 out, we would analyze that. 18 Q. And if you find the problem to be an error, what do 19 you do? 20 A. We would correct the batch and resend it to the 21 client. 22 Q. Would your team note that error so as to avoid 23 repeating it in the future? 24 A. Yes.</p>	<p style="text-align: right;">104</p> <p>1 the witness is speaking for the corporation. 2 Okay, that's all I have. 3 THE WITNESS: Thank you. 4 MR. STOLTZ: Thank you, sir. 5 MR. FEE: I have a few more follow-ups in 6 light of all that. 7 REEXAMINATION 8 BY MR. FEE: 9 Q. If accuracy is very important to a client, then it 10 would be better to use triple keying than double 11 keying; correct? 12 A. Yes, accuracy and the cost, as I said, are the two 13 parameters which typically determine -- determine the 14 reason for -- determine the approach. 15 Q. So if accuracy is important to the client, they should 16 use triple keying? 17 MR. COUTILISH: Objection, asked and 18 answered. Answer again. You don't have to change 19 your answer just because the question's asked a second 20 time. 21 A. Yeah, it's the same answer. 22 Q. So what's the answer? 23 A. It depends on the -- I mean, there are two parameters 24 which determine what should be done, the cost of the 25 page and the -- and whether it's triple key, double</p>
<p style="text-align: right;">103</p> <p>1 correct them? 2 MR. FEE: Objection, vague. 3 A. Yes, in general that would be the stance is any errors 4 that are there, we would correct and send it back to 5 the client. I do not know about the specific ones 6 you're talking about. 7 Q. Do you have any reason to believe that any errors 8 pointed out by Mr. Malamud were not corrected by 9 your 10 team? 11 A. No. 12 Q. And if I could direct your attention to the document, 13 the exhibit that was labeled 13. 14 A. Yeah. 15 Q. If you'll note at the top of that email where it says 16 there was some missing pages where the sheet feeder 17 skipped, I've put bluebook rev1.pdf on the server that 18 has all the pages. Did your teams having received 19 this email use the version that Mr. Malamud referred 20 to on the server? 21 MR. FEE: Objection, lack of foundation. 22 A. I would imagine so. 23 Q. Do you have any reason to believe that they did not? 24 A. No. 25 MR. FEE: Same objection. MR. STOLTZ: I'll just point out again that</p>	<p style="text-align: right;">105</p> <p>1 key or single key, it all depends. 2 Q. And if accuracy is the most important consideration, 3 then you would use triple key? 4 A. Yes. 5 Q. Do you know how many characters appear on a 6 common 7 page? 8 MR. COUTILISH: Objection to the form of 9 the question. 10 Q. Let me withdraw it. 11 On an average page how many characters are 12 there? 13 MR. COUTILISH: Same objection. What is an 14 average page? 15 Q. You can answer. 16 A. It's about 4,000. 17 Q. And if we go back to the error rate or the accuracy 18 rate that's identified in Exhibit 2, you told me that 19 you'd expect 49 errors in 10,000 based on this 20 percentage; right? 21 A. Yeah, that's correct. 22 Q. And so every two and a half pages approximately, 49 23 errors on an average page of 4,000 per page? 24 A. Like I said -- 25 MR. STOLTZ: Objection to form. A. Yeah, like I had said earlier, that is the</p>

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<p>1 tolerance --</p> <p>2 Q. Okay.</p> <p>3 A. -- level.</p> <p>4 Q. So that's the level that's still deemed to be</p> <p>5 acceptable?</p> <p>6 A. That's permissible, yeah.</p> <p>7 Q. Okay. So in a two and a half page document, if it has</p> <p>8 an average of 4,000 characters per page, you would</p> <p>9 expect there to be 49 -- or not expect -- 49 mistakes</p> <p>10 would be within the tolerance?</p> <p>11 A. Yes.</p> <p>12 MR. STOLTZ: Objection to form.</p> <p>13 Q. Do you have any personal knowledge of regarding</p> <p>14 any</p> <p>15 efforts to correct problems that were identified by</p> <p>16 Mr. Malamud?</p> <p>17 MR. COUTILISH: Are you asking him or</p> <p>18 HTC?</p> <p>19 MR. FEE: I'm just asking what he</p> <p>20 personally knows.</p> <p>21 MR. COUTILISH: Okay.</p> <p>22 A. I would -- I personally wouldn't know, but in general</p> <p>23 HTC would always correct errors identified by the</p> <p>24 clients.</p> <p>25 Q. During the course of your investigation in connection</p> <p>with this deposition, did you learn any information</p>	<p>1 quality assurance check on their end. So the</p> <p>2 customers, after the data entry is completed, they do</p> <p>3 quality assurance as well.</p> <p>4 Q. In your experience do some customers opt for double</p> <p>5 keying and employ other quality assurance mechanisms</p> <p>6 on their end?</p> <p>7 A. It is rare. I haven't seen anyone employing people</p> <p>8 specifically to do that, but if they have employees</p> <p>9 who are usually clients with quality assurance group,</p> <p>10 they would do it internally, they choose to depending</p> <p>11 on the sensitivity of the document and the specific</p> <p>12 fields in the document.</p> <p>13 MR. STOLTZ: Okay, nothing further. Thank</p> <p>14 you.</p> <p>15 THE WITNESS: Okay, thank you.</p> <p>16 MR. FEE: I have nothing else.</p> <p>17 MR. COUTILISH: Thank you.</p> <p>18 THE VIDEOGRAPHER: This concludes the</p> <p>19 deposition and we are off the record at 12:23.</p> <p>20 (Discussion held off the record.)</p> <p>21 (Deposition concluded at 12:23 p m.)</p> <p>22 * * *</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 identified by Mr. Malamud and corrective action was</p> <p>2 taken by HTC?</p> <p>3 A. I haven't noticed anything of that sort, but there is</p> <p>4 nothing which also says that the errors were not</p> <p>5 corrected.</p> <p>6 MR. FEE: I have no other questions.</p> <p>7 THE WITNESS: Thank you.</p> <p>8 MR. STOLTZ: I have one additional</p> <p>9 question.</p> <p>10 MR. FEE: These guys might want to go</p> <p>11 first.</p> <p>12 Thane or Andrew, do you have anything?</p> <p>13 MR. REHN: I have nothing further, no.</p> <p>14 MR. ZEE: And the same here, nothing</p> <p>15 further for me.</p> <p>16 MR. FEE: Okay.</p> <p>17 MR. STOLTZ: I'm sorry, two additional</p> <p>18 questions.</p> <p>19 THE WITNESS: Sure.</p> <p>20 REEXAMINATION</p> <p>21 BY MR. STOLTZ:</p> <p>22 Q. Are double keying and triple keying the only way that</p> <p>23 a client can assure the accuracies of a digitization</p> <p>24 project?</p> <p>25 A. There are additional means. Customers also do a</p>	<p>1 State of Michigan)</p> <p>2 County of Genesee)</p> <p>3 Certificate of Notary Public</p> <p>4 I do hereby certify that the witness, whose testimony</p> <p>5 was taken in the above-entitled matter, was first duly</p> <p>6 sworn</p> <p>7 to tell the truth; the testimony contained herein was</p> <p>8 reduced to writing in the presence of the witness by means</p> <p>9 of stenography; afterwards transcribed; and is a true and</p> <p>10 complete transcript of the testimony given by the witness.</p> <p>11 I further certify that I am not connected by blood or</p> <p>12 marriage with any of the parties; their attorneys or agents;</p> <p>13 and that I am not interested, directly, indirectly or</p> <p>14 financially, in the matter of controversy.</p> <p>15 In witness whereof, I have hereunto set my</p> <p>16 hand this 14th day of November, 2014.</p> <p>17</p> <p>18 _____</p> <p>19 Jeanette M. Fallon, CRR/RMR/CLR/CSR-3267</p> <p>20 Certified Realtime Reporter</p> <p>21 Registered Merit Reporter</p> <p>22 Certified LiveNote Reporter</p> <p>23 Certified Shorthand Reporter</p> <p>24 Notary Public, Genesee, Michigan</p> <p>Acting in Oakland County, Michigan</p>



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