

EXHIBIT D

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR TESTING AND
MATERIALS D/B/A ASTM INTERNATIONAL;
NATIONAL FIRE PROTECTION, INC.;
AND AMERICAN SOCIETY OF HEATING,
REFRIGERATING, AND AIR-CONDITIONING
ENGINEERS, INC.

Plaintiffs,
Counter-Defendants,

Case No.:

vs.

1:13-cv-01215-EGS

PUBLIC.RESOURCE.ORG, INC.

Defendant/
Counter-Plaintiff

VIDEOTAPED DEPOSITION OF THE 30 b) 6) OF
PUBLIC.RESOURCE.ORG

DATE: Thursday, February 26, 2015

TIME: 10:07

LOCATION: 1 Market Street, Spear Tower, Suite
2000, San Francisco, California

Reported by: Ashley Soevyn
Certified Shorthand Reporter
License Number 12019

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<p style="text-align: right;">278</p> <p>1 whether that capability is possible? 2 BY MR. REHN: 3 Q Yes, using these links here. 4 MR. BRIDGES: Objection, may call for 5 speculation, may lack knowledge. 6 THE WITNESS: It's theoretically possible, 7 yes. 8 BY MR. REHN: 9 Q So -- so -- and that same user, having 10 that -- a copy of that document saved on their 11 desktop, could, say, print a copy of that document 12 if they have a printer attached to their computer? 13 MR. BRIDGES: Objection, hypothetical, 14 lacks foundation, assumes facts not in evidence, 15 vague and ambiguous. 16 THE WITNESS: On -- on some computers, 17 yes. 18 BY MR. REHN: 19 Q And on those computers from which people 20 can print PDFs that are saved to their desktop, they 21 can print as many copies as they like? 22 MR. BRIDGES: Objection, hypothetical, 23 lacks foundation, vague and ambiguous, 24 argumentative. 25 THE WITNESS: It's -- it's very</p>	<p style="text-align: right;">280</p> <p>1 ambiguous. Are you asking specifically about the 2 description? 3 MR. REHN: We'll start with the 4 description. 5 THE WITNESS: Yes. 6 BY MR. REHN: 7 Q And we'll just go through it. Where it 8 says author, National Fire Protection Association, 9 did you enter that information? 10 A Yes. 11 Q When you -- I believe it -- was it the APC 12 call? What was it? 13 A API, application programming interface. 14 Q API call. So when you use the API, does 15 it give you an option to enter an author? Is that 16 one of the options that are identified there? 17 A You can specify any piece of metadata and 18 a value associated with that metadata. 19 Q And you identified National Fire 20 Protection Association as the author of this 21 document? 22 A I did. 23 Q So -- and that was consistent with your 24 understanding that the NFPA is the author of the 25 2011 NEC?</p>
<p style="text-align: right;">279</p> <p>1 hypothetical. It's if -- if you have a printer on 2 your computer, you can print a piece of paper. 3 BY MR. REHN: 4 Q And if you have a file that you've 5 accessed and saved to your desktop from the Internet 6 but is now saved on your computer, you can print 7 multiple copies of that file? 8 MR. BRIDGES: Objection, assumes many 9 facts not in evidence, lacks foundation, 10 hypothetical, vague and ambiguous. 11 THE WITNESS: I believe you accessed a URL 12 on the Internet and printed a file, so I would say 13 yes, you certainly were capable of doing that. 14 MR. BRIDGES: Let the record reflect that 15 the client was holding Exhibit 52 up in the air in 16 context with that response. 17 BY MR. REHN: 18 Q If we could go and look at the information 19 underneath that box in the center, is that 20 information that you entered when you uploaded this 21 document to the Internet Archive website? For 22 example, where it says "description" and then it 23 says "legally binding document," would that be 24 information you entered? 25 MR. BRIDGES: Objection, vague and</p>	<p style="text-align: right;">281</p> <p>1 MR. BRIDGES: Objection, calls for a legal 2 conclusion, lacks -- calls for a legal opinion, 3 assumes facts not in evidence, lacks foundation, 4 vague and ambiguous. 5 THE WITNESS: I don't know the precise 6 meaning of the term "author." They were certainly 7 the source of this document. 8 BY MR. REHN: 9 Q But you identified them as the author 10 here. 11 MR. BRIDGES: Objection, asked and 12 answered. 13 THE WITNESS: Just as you discussed 14 "downloads" as a term. Yes, I -- I use the word 15 "author." 16 BY MR. REHN: 17 Q So it was your understanding when you 18 uploaded this document that the NFPA was the author 19 of this document? 20 MR. BRIDGES: Objection, asked and 21 answered and calls for a legal conclusion, lacks 22 foundation, assumes facts not in evidence, vague 23 and ambiguous. 24 THE WITNESS: I put the word "author," a 25 colon and National Fire Protection Association. As</p>

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<p style="text-align: right;">282</p> <p>1 to the technical meaning of the term "author," 2 that's -- you folks are lawyers. 3 BY MR. REHN: 4 Q Sure. But just in the way you understand 5 the term, that's what -- you understood that NFPA 6 was the author? 7 MR. BRIDGES: Objection, misstates 8 testimony, calls for a legal conclusion, lacks 9 foundation, vague and ambiguous. 10 THE WITNESS: I put the word "author," 11 colon and National Fire Protection Association. 12 BY MR. REHN: 13 Q And if we could turn to the next page, 14 you'll see a section titled, "Selected Metadata." 15 A Yes, I see that. 16 Q And do you see a -- a line that says, 17 "credits"? 18 A I do. 19 Q And what does that say? 20 A It was uploaded by Public.Resource.Org. 21 Q And do you always put that credits line in 22 documents that you upload to the Internet Archive? 23 MR. BRIDGES: Objection, argumentative. 24 THE WITNESS: I don't know if I always do. 25 BY MR. REHN:</p>	<p style="text-align: right;">284</p> <p>1 "licensed URL," and then there is a URL for a 2 Creative Commons website that says, "public domain." 3 Did you put that there? 4 MR. BRIDGES: Objection, lacks foundation, 5 vague and ambiguous. 6 THE WITNESS: What it actually says is 7 "creativecommons.org/publicdomain/0/1.0." 8 BY MR. REHN: 9 Q Slash? 10 A Slash. 11 Q And did you put that URL there when you 12 uploaded this document? 13 A I specified in the API what the licensed 14 URL was going to be. 15 Q Right. Do you always have to specify a 16 licensed URL when you use API, or is that just an 17 option you have? 18 MR. BRIDGES: Objection, lacks foundation, 19 vague and ambiguous -- 20 THE WITNESS: If you don't -- 21 MR. BRIDGES: -- and compound. 22 THE WITNESS: Repeat the question, please. 23 BY MR. REHN: 24 Q When you use the API to upload a document 25 to the Internet Archive, do you always have to</p>
<p style="text-align: right;">283</p> <p>1 Q Do you always try to put that line when 2 you upload a document? 3 MR. BRIDGES: Same objection. 4 THE WITNESS: I -- I certainly did in this 5 case. 6 BY MR. REHN: 7 Q Is that consistent with your general 8 practice when you upload documents to the Internet 9 Archive website? 10 MR. BRIDGES: Same objection. 11 THE WITNESS: I have often done that. 12 BY MR. REHN: 13 Q And why do you do that? 14 A Identifies who did the upload. 15 Q So if you want to identify who did the 16 upload, this is how you would do it? 17 A That's one way I would do it. 18 Q And if you didn't want to identify who did 19 the upload, maybe you wouldn't put that line? 20 MR. BRIDGES: Objection, hypothetical, 21 lacks foundation. 22 THE WITNESS: It's one of the things I try 23 to do. 24 BY MR. REHN: 25 Q And then on the next line it says,</p>	<p style="text-align: right;">285</p> <p>1 specify a licensed URL? 2 MR. BRIDGES: Objection, vague and 3 ambiguous. 4 THE WITNESS: You can create an object 5 using the API without specifying a licensed URL. 6 BY MR. REHN: 7 Q Does that have any effect on the 8 accessibility of that document on the Internet 9 Archive website? 10 MR. BRIDGES: Objection, may call for 11 speculation. 12 THE WITNESS: No, it does not. 13 BY MR. REHN: 14 Q And what -- of these other things we've 15 looked at, do you always have to put credits? 16 A No. 17 Q Do you always have to put an author? 18 A No. 19 Q So you can select the categories that you 20 want to identify when you upload a document? 21 A "Categories" is the wrong word. I can 22 specify metadata and their values. 23 Q So you could decide to identify an author 24 or not, for example? 25 MR. BRIDGES: Objection, argumentative as</p>

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1 we've discussed, the word "author," vague and
2 ambiguous.
3 THE WITNESS: The person who writes the
4 API call specifies what metadata values will be
5 included.
6 BY MR. REHN:
7 Q Sure. So let's go back to that licensed
8 URL line. You chose to specify that Creative
9 Commons URL that you read a short while ago?
10 A Yes, I did.
11 Q Do you -- why did you choose that URL?
12 What's the significance of that?
13 A That is a Creative Commons CC0 universal
14 license.
15 Q And what does that mean?
16 A It means no rights asserted.
17 Q Can you -- no rights asserted by whom?
18 A By the creator of this Internet Archive
19 object, this identifier.
20 Q So you're representing that you do not
21 assert any rights --
22 MR. BRIDGES: Objection.
23 BY MR. REHN:
24 Q -- in the -- in the document?
25 MR. BRIDGES: Objection, misstates

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1 testimony, lacks foundation.
2 THE WITNESS: By putting a CC0 license on
3 that, I am specifying that I assert no rights over
4 this object.
5 BY MR. REHN:
6 Q Why does it say "public domain"?
7 MR. BRIDGES: Objection, misstates the
8 document.
9 THE WITNESS: It says public domain/0/1.0,
10 and that's the URL that the Creative Commons
11 organization assigned to the CC0 license.
12 BY MR. REHN:
13 Q Does the CC0 license indicate that the
14 document is in the public domain?
15 A No, it --
16 MR. BRIDGES: Objection, may call for
17 speculation, may call for a legal opinion, vague
18 and ambiguous.
19 THE WITNESS: No, it does not.
20 BY MR. REHN:
21 Q So you were not representing that this
22 document is in the public domain?
23 MR. BRIDGES: Objection, lacks foundation,
24 vague and ambiguous.
25 THE WITNESS: I was asserting that the

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1 creator of this object was not asserting any
2 rights.
3 BY MR. REHN:
4 Q What do you mean by "creator of this
5 object"?
6 A The person who exercised the API call that
7 resulted in the creation of this identifier; me in
8 this case.
9 Q I'm going to mark Exhibit 53.
10 (Exhibit 53 marked for identification.)
11 BY MR. REHN:
12 Q Do you recognize this document?
13 A It appears to be an Internet Archive
14 screen dump like your previous exhibit.
15 Q And this one is for the 2014 National
16 Electrical Code; is that right?
17 A That is what it appears to be, yes.
18 Q Now, this is -- looks pretty similar to
19 Exhibit 52. Would you agree with that?
20 MR. BRIDGES: Objection, lacks foundation,
21 vague and ambiguous.
22 THE WITNESS: There are some similarities.
23 BY MR. REHN:
24 Q Like there's the box in the middle and
25 then there's options for how to view the book on the

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1 left?
2 A Yes.
3 Q And then there's some information below
4 the box in the middle such as author, subject and so
5 forth?
6 MR. BRIDGES: Objection, lacks foundation,
7 vague and ambiguous.
8 THE WITNESS: Yes.
9 BY MR. REHN:
10 Q And you put that information in this -- in
11 this as well when you used the API interface to
12 upload this document?
13 MR. BRIDGES: Objection, vague and
14 ambiguous.
15 THE WITNESS: Yes.
16 BY MR. REHN:
17 Q So again, you have -- you -- you chose to
18 identify the author as National Fire Protection
19 Association?
20 MR. BRIDGES: Objection. To the extent
21 you're asking him a question with significance of
22 legal terms, I'll object on the ground that it
23 calls for a legal opinion.
24 THE WITNESS: Once again, I put the
25 identifier author, colon, and National Fire

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<p style="text-align: right;">290</p> <p>1 Protection Association in -- in the HTML. 2 BY MR. REHN: 3 Q And was -- and that was your understanding 4 at the time you uploaded this document, that the 5 National Fire Protection Association was the author 6 as you would use that word? 7 MR. BRIDGES: Objection, vague and 8 ambiguous, calls -- may call for a legal 9 conclusion, lacks foundation, assumes facts not in 10 evidence. 11 THE WITNESS: Again, I use the label 12 author and a colon and National Fire Protection 13 Association. 14 BY MR. REHN: 15 Q And you -- you chose the word "author"? 16 A Yes. 17 Q And then under subject, there's a few 18 things listed, and the first one -- what is the 19 first one there? 20 MR. BRIDGES: Objection, vague and 21 ambiguous. 22 THE WITNESS: Subject, colon, required in 23 all 50 states, Public Safety Code, legally binding 24 document. 25 BY MR. REHN:</p>	<p style="text-align: right;">292</p> <p>1 subjects you chose to put? 2 MR. BRIDGES: Same objection. 3 THE WITNESS: It's what I just told you, 4 required in all 50 states, Public Safety Code, 5 legally binding document. 6 BY MR. REHN: 7 Q Do you recall why -- you -- you said 8 earlier you don't have any recollection of why you 9 chose a different set of subjects here. 10 A This was done at a different point in 11 time. 12 Q What was the significance of that? 13 MR. BRIDGES: Objection, argumentative. 14 THE WITNESS: I did things differently on 15 two different days. 16 BY MR. REHN: 17 Q Why did you do things differently when you 18 uploaded the 2014 National Electrical Code? 19 MR. BRIDGES: Objection, argumentative, 20 lacks foundation. 21 THE WITNESS: I don't know why I did it 22 differently. 23 BY MR. REHN: 24 Q Do you remember any changes that happened 25 that would have led you to upload standards in a</p>
<p style="text-align: right;">291</p> <p>1 Q And did you choose to put those items 2 there under -- under the heading subject? 3 A Those are the keywords that we 4 previously -- previously discussed and as -- as I 5 told you, yes, I -- I chose those keywords. 6 Q So the -- the subject line represents the 7 keywords that we looked at in the other document? 8 MR. BRIDGES: Objection, may be misleading 9 and vague and ambiguous. 10 THE WITNESS: Yes. 11 BY MR. REHN: 12 Q And again, if -- if we compare it to 13 Exhibit 52, if -- if you look at Exhibit 52 you 14 put -- oh, I'm sorry. 15 MR. REHN: This is 53, right? 16 THE REPORTER: Yes. 17 BY MR. REHN: 18 Q So if you look at 52, what's the subject 19 that you chose to put on Exhibit 52 when you 20 uploaded that document? 21 MR. BRIDGES: Objection, argumentative, 22 vague and ambiguous. 23 THE WITNESS: Public.Resource.Org. 24 BY MR. REHN: 25 Q And then on Exhibit 53, what are the</p>	<p style="text-align: right;">293</p> <p>1 different way by the time this one was uploaded? 2 MR. BRIDGES: Objection, vague and 3 ambiguous. 4 THE WITNESS: This was done at a -- at a 5 later point in time and I obviously typed different 6 things into the API column. 7 BY MR. REHN: 8 Q And you don't remember why you did that? 9 A No. 10 Q Do you know why you put required in all 50 11 states? 12 A Oh. No. 13 Q Is -- was it your understanding that the 14 2014 National Electrical Code was required in all 50 15 states at the time you uploaded this document? 16 A No, it was not. 17 Q Did you have any concern that by putting 18 that, you might mislead somebody who used this 19 website? 20 MR. BRIDGES: Objection, vague and 21 ambiguous. 22 THE WITNESS: I had no concern because I 23 obviously was not paying attention to that 24 particular phrase right there. 25 BY MR. REHN:</p>