

# EXHIBIT 1

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, INC.

Plaintiffs,

v.

PUBLIC.RESOURCE.ORG, INC.,

Defendant.

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PUBLIC.RESOURCE.ORG, INC.,

Counterclaimant,

v.

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, INC.

Counterdefendants.

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Case No. 1:13-cv-01215-EGS

**DEFENDANT-COUNTERCLAIMANT  
PUBLIC.RESOURCE.ORG, INC.'S  
FIRST SET OF REQUESTS FOR  
PRODUCTION OF DOCUMENTS TO  
AMERICAN SOCIETY OF HEATING,  
REFRIGERATING, AND AIR-  
CONDITIONING ENGINEERS, INC.  
(NOS. ASHRAE-1 THROUGH  
ASHRAE-18)**

Filed: August 6, 2013

**PROPOUNDING PARTY:** Defendant-Counterclaimant Public.Resource.Org, Inc.  
**RESPONDING PARTIES:** Plaintiff-Counterdefendant American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc.  
**SET NUMBER:** One (Nos. ASHRAE -1 through ASHRAE-18)

Pursuant to Federal Rules of Civil Procedure 26 and 34, Defendant-Counterclaimant Public.Resource.Org, Inc. requests that Plaintiff-Counterdefendant American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc. produce the following documents within thirty (30) days from the date of service, at the offices of Fenwick & West LLP, 801 California Street, Mountain View, CA 94041.

### **DEFINITIONS**

1. The following definitions shall apply to each of the Requests. Terms without specific definitions below shall have their ordinary and usual meanings.
2. “Person” includes any individual, trust, estate, entity (including but not limited to sole proprietorship, partnership, joint venture, company, or corporation), organization, association, group, government, or governmental body (including but not limited to any governmental agent, representative, agency, bureau, department, committee, or commission).
3. “You,” “Your,” or “ASHRAE” means American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc., its predecessors, affiliates, officers, employees, agents, attorneys, and any Person ASHRAE believes to be an agent of ASHRAE or was otherwise acting on its behalf.
4. “Public Resource” and “PRO” mean Public.Resource.Org, Inc.
5. The terms “Work-At-Issue” and “Works-At-Issue” mean any and all works in which You assert copyright, which copyright You claim that PRO has infringed, directly or indirectly.
6. The term “Complete Chain of Title” includes, at a minimum: documents sufficient to identify the original creator(s) of the work and all assignments documenting transfer from the

original owner(s) to American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc., including all intermediate transfers, as well as a copyright registration.

7. The term “Standard” refers to any standard, code, safety code, model code, model law, or set of rules, whether or not any jurisdiction has incorporated it into law.

8. The term “Incorporated Standard” refers to any Standard that any jurisdiction has incorporated into law, including incorporation by reference.

9. “Legal Authority” means any governmental edict, rule, regulation, law, or other binding authority or expression.

10. “Standards Process” means development, creation, drafting, revision, editing, transmission, publication, distribution, display, or dissemination of a standard.

11. “Contribution” means assistance, advice, financial support, labor, effort, or expenditure of time.

12. “Document” means any items described in Federal Rule of Civil Procedure 34(a) and any “writings” within the meaning of Federal Rule of Evidence 1001, and all preliminary and final drafts of any such items.

13. “Concerning” or “regarding” means “pertaining to, referring to, relating to, mentioning, or reflecting.”

14. The terms “or” and “and” mean both the conjunctive and the disjunctive.

15. The terms “any” or “each” include and encompass “all.”

16. The use of a verb in any tense includes the use of the verb in all other tenses.

17. The singular form of any word includes the plural. The plural form of any word includes the singular.

18. The term “all” means any and all.

### **INSTRUCTIONS**

1. In responding to the following requests, furnish all available information including information in the possession, custody, or control of any of Your attorneys, directors, officers, agents, employees, representatives, associates, investigators or division affiliates,

partnerships, parents or subsidiaries, and Persons under Your control.

2. In selecting Documents from files and other sources and numbering of such Documents for production, do so in a manner that allows determination of the source and order of each Document.

3. Produce file folders with tabs or labels or directories of files identifying Documents intact with such Documents.

4. Do not separate Documents attached to each other.

5. Produce Documents with control numbers permitting identification of particular documents by their assigned number.

6. Where there is a claim of privilege to responding to any of these requests:

- a. the party or attorney asserting the privilege shall in the response or objection to the discovery request identify the nature of the privilege (including work product) it claims, and if the privilege concerns a claim or defense that state law governs, indicate which state's privilege rule it invokes;
- b. provide the following information in the response or objection: (i) date of the Document or, if no date is indicated, an estimate of that date; (ii) type of Document; (iii) subject matter; (iv) the name and address of each person who prepared it; (v) the name and address of each person to whom it was sent; (vi) the name and address of each person for whom it was prepared; (vii) the name and address of each person who received or reviewed it, if any; (viii) the name and address of each person in possession of it; and (ix) the particular request to which such Document is responsive.

7. If Your response to a particular Document request is a statement that You lack the ability to comply with that request, You must specify whether the inability to comply is because the particular Document or category of information never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in Your possession, custody, or control, in which case identify the name and address of any person or entity known or believed by You to have possession, custody, or control of that Document or category of information.

8. If You contend certain Document requests require disclosure of trade secret or other confidential research, development, or commercial information, please mark them as such or as a protective order in this action directs.

9. If you contend that you have previously produced any Document that these requests call for, identify the production number and file directory location of that Document.

Your obligation to respond to these requests is continuing and You are to supplement your responses to include subsequently acquired information in accordance with the requirements of Rule 26(e) of the Federal Rules of Civil Procedure.

### **REQUESTS FOR PRODUCTION**

#### **REQUEST FOR PRODUCTION NO. 1:**

Documents sufficient to identify each Work-At-Issue.

#### **REQUEST FOR PRODUCTION NO. 2:**

Documents sufficient to establish Complete Chain of Title for each Work-At-Issue.

#### **REQUEST FOR PRODUCTION NO. 3:**

Documents sufficient to identify all Persons who participated in the Standards Process of each Work-At-Issue.

#### **REQUEST FOR PRODUCTION NO. 4:**

Documents sufficient to identify all Contributions in support of the Standards Process of each Work-At-Issue.

#### **REQUEST FOR PRODUCTION NO. 5:**

Documents sufficient to identify every Legal Authority that incorporates each Work-At-Issue, either expressly or by reference.

#### **REQUEST FOR PRODUCTION NO. 6:**

All documents constituting, comprising, referring to, or evidencing agreements between You and any Person who participated in the Standards Process of each Work-At-Issue.

#### **REQUEST FOR PRODUCTION NO. 7:**

All documents constituting, comprising, or concerning communications with any

government employee, official, or entity regarding incorporation (whether actual, proposed, desired, or considered) of any Standard in which You claim rights into any Legal Authority.

**REQUEST FOR PRODUCTION NO. 8:**

All documents regarding Carl Malamud.

**REQUEST FOR PRODUCTION NO. 9:**

All documents regarding Public Resource or its representatives (other than Carl Malamud), including its legal representatives.

**REQUEST FOR PRODUCTION NO. 10:**

All documents constituting or concerning communications among Persons who participated in the Standards Process of each Work-At-Issue, including but not limited to meeting and conference call minutes and notes.

**REQUEST FOR PRODUCTION NO. 11:**

All documents concerning revenue or profit expectations by You or any other Person regarding the availability, publication, sale, distribution, display, or other dissemination of any Standard in which You claim rights.

**REQUEST FOR PRODUCTION NO. 12:**

All documents concerning any Contributions You have received from any governmental entity in connection with the Standards Process of each Work-At-Issue.

**REQUEST FOR PRODUCTION NO. 13:**

All documents concerning any Contributions You have received from any not-for-profit entity (other than a governmental entity) in connection with the Standards Process of each Work-At-Issue.

**REQUEST FOR PRODUCTION NO. 14:**

All documents constituting, comprising, or concerning communications requesting Contributions of any form from any Person in connection with the Standards Process of each Work-At-Issue.

**REQUEST FOR PRODUCTION NO. 15:**

All documents concerning offers of Contributions from any Person in connection with the Standards Process of each Work-At-Issue.

**REQUEST FOR PRODUCTION NO. 16:**

All documents constituting, comprising, or concerning communications criticizing Your claims, statements, arguments, or positions in this dispute or litigation.

**REQUEST FOR PRODUCTION NO. 17:**

All documents constituting, comprising, or concerning communications by You regarding this dispute or litigation.

**REQUEST FOR PRODUCTION NO. 18:**

All documents constituting, comprising, or concerning licenses with respect to any Work-At-Issue.



Dated: February 13, 2014

Respectfully submitted,

*/s/ Andrew P. Bridges*

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Public.Resource.Org, Inc.*

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Case No. 1:13-cv-01215-EGS

PROOF OF SERVICE

Filed: August 6, 2013

The undersigned declares as follows:

I am a citizen of the United States and employed in San Francisco County, State of California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is Fenwick & West LLP, 555 California Street, 12<sup>th</sup> Floor, San Francisco, CA 94104.

On the dates set forth below, I served a copy of the following documents:

1. DEFENDANT-COUNTERCLAIMANT PUBLIC.RESOURCE.ORG, INC.'S FIRST REQUEST TO AMERICAN SOCIETY OF HEATING, REFRIGERATING, AND AIR CONDITIONING ENGINEERS (NO. ASHRAE-1);
2. DEFENDANT-COUNTERCLAIMANT PUBLIC.RESOURCE.ORG, INC.'S FIRST SET OF INTERROGATORIES AMERICAN SOCIETY OF HEATING, REFRIGERATING, AND AIR-CONDITIONING ENGINEERS, INC. (NOS. ASHRAE-1 THROUGH ASHRAE-7);
3. DEFENDANT-COUNTERCLAIMANT PUBLIC.RESOURCE.ORG, INC.'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO AMERICAN SOCIETY OF HEATING, REFRIGERATING, AND AIR-CONDITIONING ENGINEERS, INC. (NOS. ASHRAE-1 THROUGH ASHRAE-18)

on the interested parties in the subject action by placing a true copy thereof as indicated below, addressed as follows:

**X** **BY E-MAIL ON FEBRUARY 13, 2014:** by causing to be transmitted via e-mail the documents listed above to the addressee at the email addresses listed below:

<p><i>Counsel for National Fire Protection Association, Inc.</i></p> <p>Anjan Choudhury MUNGER, TOLLES &amp; OLSON LLP 355 South Grand Avenue, 35th Floor Los Angeles, CA 90071 <a href="mailto:Anjan.Choudhury@mto.com">Anjan.Choudhury@mto.com</a></p>	<p><i>Counsel for National Fire Protection Association, Inc.</i></p> <p>Kelly M. Klaus Jonathan H. Blavin Michael J. Mongan MUNGER, TOLLES &amp; OLSON LLP 560 Mission St., 27th Floor San Francisco, CA 94105 <a href="mailto:Kelly.Klaus@mto.com">Kelly.Klaus@mto.com</a> <a href="mailto:Jonathan.Blavin@mto.com">Jonathan.Blavin@mto.com</a> <a href="mailto:Michael.Mongan@mto.com">Michael.Mongan@mto.com</a></p>
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<p><i>Counsel for American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc.</i></p> <p>Kenneth L. Steintal  Joseph R. Wetzel  KING &amp; SPALDING LLP  101 2nd Street, Suite 2300  San Francisco, CA 94105  <a href="mailto:ksteinthal@kslaw.com">ksteinthal@kslaw.com</a>  <a href="mailto:jwetzel@kslaw.com">jwetzel@kslaw.com</a></p>	<p><i>Counsel for American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc.</i></p> <p>Jeffrey S. Bucholtz  KING &amp; SPALDING LLP  1700 Pennsylvania Avenue, NW, Suite 200  Washington, DC 20006  <a href="mailto:jbucholtz@kslaw.com">jbucholtz@kslaw.com</a></p>
<p><i>Counsel for Public.Resource.Org, Inc</i></p> <p>Mitchell L. Stoltz  Corynne McSherry  ELECTRONIC FRONTIER FOUNDATION  815 Eddy Street  San Francisco, CA 94109  <a href="mailto:mitch@eff.org">mitch@eff.org</a>  <a href="mailto:corynne@eff.org">corynne@eff.org</a></p>	<p><i>Counsel for Public.Resource.Org, Inc</i></p> <p>David Halperin  1530 P Street NW  Washington, DC 20005  <a href="mailto:davidhalperindc@gmail.com">davidhalperindc@gmail.com</a></p>

**X**

**BY E-MAIL ON FEBRUARY 19, 2014:** by causing to be transmitted via e-mail the documents listed above to the addressee at the email addresses listed below:

<p><i>Counsel for American Society for Testing and Materials dba ASTM International, Inc.</i></p> <p>J. Kevin Fee Michael Franck Clayton MORGAN, LEWIS &amp; BOCKUS LLP 1111 Pennsylvania Avenue, N.W. Washington, DC 20004 <a href="mailto:jkfee@morganlewis.com">jkfee@morganlewis.com</a> <a href="mailto:mclayton@morganlewis.com">mclayton@morganlewis.com</a></p>	
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I declare under penalty of perjury under the laws of the State of California and the United States that the above is true and correct.

Date: February 19, 2014

/s/ Raymond F. Pelayo  
Raymond F. Pelayo