

EXHIBIT CC

Case No. 1:14-cv-00857-TSC-DAR

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN EDUCATIONAL RESEARCH)
ASSOCIATION, INC., AMERICAN)
PSYCHOLOGICAL ASSOCIATION, INC.,)
and NATIONAL COUNCIL ON)
MEASUREMENT IN EDUCATION, INC.,)

Civil Action No. 1:14-cv-00857-TSC-DAR

Plaintiffs/Counterclaim-Defendants,)

**DECLARATION OF INTERNET
ARCHIVE AND STIPULATION OF
THE PARTIES**

v.)

PUBLIC.RESOURCE.ORG, INC.,)

Defendant/Counterclaim-Plaintiff.)

PLEASE TAKE NOTICE that Internet Archive herein supplements its deposition testimony of December 2, 2014 in the captioned action as follows:

1. According to the Internet Archive's records, the user account associated with the email address carl@media.org was created and given access to post content to Internet Archive's website on December 10, 2003 (supplement to Dec. 2, 2014 Depo. Tr. at p. 55).

2. The document marked as Exhibit 6 during the deposition of Internet Archive by Christopher Butler on December 2, 2014 is an authentic business record of Internet Archive (supplement to Dec. 2, 2014 Depo. Tr. at pp. 55-56).

3. Production page IA-AERA-036, which was marked as Exhibit 7 during the deposition of Internet Archive by Christopher Butler, lists the following commands that were performed during the posting of the item displayed in Exhibit 6 and associated with the URL <https://archive.org/details/gov.law.aera.standards.1999>: `archive.php`, `derive.php`, `bup.php`, and `make_dark.php`. (supplement to Dec. 2, 2014 Depo. Tr. at pp. 82-83).

4. A ".php" file extension is associated with PHP, a server-side scripting language designed for web development and also can be used as a general-purpose programming

language. PHP originally stood for *Personal Home Page*, but now stands for *PHP: Hypertext Preprocessor*. (supplement to Dec. 2, 2014 Depo. Tr. at p. 83).

5. The “.php” files listed in Exhibit 7 are stored on Internet Archive servers. The scripts associated with the “.php” file extensions in Exhibit 7 were written by Internet Archive developers and may be run automatically when an archive.org account-holder creates or makes a change to an archive.org item. (supplement to Dec. 2, 2014 Depo. Tr. at pp. 83-84).

6. Production page IA-AERA-036 of Exhibit 7 contains a column labeled “args,” which is an abbreviation for “arguments.” The inputted arguments listed in this column enable the corresponding command, located in the “cmd” column, to run automatically. (supplement to Dec. 2, 2014 Depo. Tr. at pp. 84-85).

7. The document marked as Exhibit 8 during the deposition of Internet Archive by Christopher Butler includes information about each of the following numbered tasks: 107010707, 107010788, 107019567, 107034141, 107040689, 107040792, and 107040809. For each task, the associated information includes a line that begins with the word “server” and is followed by the corresponding server name. The servers referenced in the task logs of Exhibit 8 store information posted to archive.org’s website. In task 107010707, the word “server” is followed by “ia600500.us.archive.org.” In task 107010788, the word “server” is followed by “iw600203.us.archive.org.” The former server is a primary server and the latter server is a “worker”, separate and distinct from the primary server, made available to perform tasks that may overburden the primary server. Task 10710788, a relatively resource-intensive task, was performed on the worker to preserve computing resources. Once the task was finished, the system automatically moved the files for the item gov.law.aera.standards.1999 to the primary server from the worker. (supplement to Dec. 2, 2014 Depo. Tr. at pp. 76-79 and 89-91).

8. Production page IA-AERA-006 of Exhibit 8 includes the line “deleting from hd.www37.s3dns.us.archive.org.” The files being deleted pursuant to this line include temporary versions of the files submitted by the uploader. With these files saved on primary and back-up archive.org servers, the temporary versions were automatically deleted. (supplement to Dec. 2, 2014 Depo. Tr. at p. 98).

9. Production pages IA-AERA-008 to IA-AERA-009 of Exhibit 8 reference multiple “BookOp” tasks, which are part of a “BookOp” module. These tasks include “BookOp SetupMetaXML,” “BookOp DevelopRawJp2,” “BookOp AbbyyZipToGz,” and “BookOp DevelopMekel1.” These “Book Op” tasks are automatically queued for texts items posted to archive.org. “BookOp SetupMetaXML” automatically processes metadata for an item. This task automatically obtained an “ARK identifier” and inserted it to the metadata for the item gov.law.aera.standards.1999, a process that is generally automatically carried out for text items on archive.org. An ARK is a reference identifier used by various libraries to convey and retrieve metadata. “BookOp DevelopRawJp2” automatically processes Jp2 image files if any such files are uploaded in a compressed file with a specified name format. No such compressed file was found for this item. “BookOp AbbyyZipToGz” automatically applies tasks to Optical Character Recognition (OCR) files with a specified name format, if they are found in the item. No such OCR files were found for this item. BookOp DevelopMekel1” is a process that runs on image scans of microfilm. It was skipped and not run on this item. (supplement to Dec. 2, 2014 Depo. Tr. at p. 99).

10. Production page IA-AERA-013 of Exhibit 8 references tasks automatically performed by a “Module DjvuXML.” This module creates a file with OCR data from the initially submitted text that functions with a special reader called a “Djvu reader” or “déjà vu

reader.” A “Djvu reader” can be used to display a “Djvu” document for a user on a computer or mobile device. (supplement to Dec. 2, 2014 Depo. Tr. at pp. 102-103).

11. Text documents such as the one posted to <https://archive.org/details/gov.law.aera.standards.1999> are automatically made viewable on archive.org in Internet Archive’s BookReader application format which displays individual image files as pages in a digital book in a visitor’s web browser. The ProcessJp2 module automatically converts an initially submitted PDF file to individual images, each image corresponding to a page in the PDF document, which may then be processed to be displayed in the Internet Archive Bookreader. (supplement to Dec. 2, 2014 Depo. Tr. at pp. 103-104).

12. Production page IA-AERA-015 of Exhibit 8 includes tasks performed by a “Module TOC.” The “Module TOC” automatically generates a Table of Contents metadata file provided that the required information has been pre-submitted. The required information was not found for this item [gov.law.aera.standards.1999](https://archive.org/details/gov.law.aera.standards.1999) and a Table of Contents metadata file was not created. (supplement to Dec. 2, 2014 Depo. Tr. at p. 105).

13. Production page IA-AERA-015 of Exhibit 8 includes tasks performed by a “Module ScandataXML.” The “Module ScandataXML” automatically checks, updates, and/or creates a scandata.xml file for an item, which may include information on dimensions for scanned images and instructions on how to crop images. No cropping is applied as a default (supplement to Dec. 2, 2014 Depo. Tr. at p. 105).

14. Production page IA-AERA-016 of Exhibit 8 includes tasks performed by a “Module HackPDF.” The “Module HackPDF” automatically analyzes submitted PDFs and may apply changes to help ensure that other processes in the derive.php task will work. In the

instance of item gov.law.aera.standards.1999, the task log states that the module was skipped and did not apply changes (supplement to Dec. 2, 2014 Depo. Tr. at p. 106).


15. Production pages IA-AERA-020 and IA-AERA-031 of Exhibit 8 contain references to directories with a file path that includes “/var/tmp/autoclean/”. These directories are used for temporary storage of files during various processes. These directories are regularly and automatically cleared after the processes using them have finished, and the files being used by those processes have been stored elsewhere (typically on the primary and back up servers). The use of temporary files in this manner is standard for many processes and transfers of archive.org item files (supplement to Dec. 2, 2014 Depo. Tr. at p. 106).

16. Production pages IA-AERA-024 and IA-AERA-027 of Exhibit 8 include the following warning messages – “WARNING: POSSIBLE DNS SPOOFING DETECTED!” “WARNING: REMOTE HOST IDENTIFICATION HAS CHANGED!”, “IT IS POSSIBLE THAT SOMEONE IS DOING SOMETHING NASTY”, and “It is also possible that the RSA host key has just been changed.” These messages are generated automatically by the Ubuntu operating system (on which Internet Archive servers runs) when an outdated record of identity information (specifically an RSA key) for a server submitting files is stored by a receiving server. This occurs sometimes between different Internet Archive servers and is not related to the authentication of the user’s log-in credentials for their user account (supplement to Dec. 2, 2014 Depo. Tr. at p. 108).

17. Based on the contents of Exhibit 8, the item “gov.law.aera.standards.1999” was uploaded to two servers, a primary server and a backup server, within Internet Archive. (supplement to Dec. 2, 2014 Depo. Tr. at p. 115).

18. Production page IA-AERA-035 of Exhibit 9 includes a log for task 315793300. This task was associated with server ia600500 and synchronized to backup server ia700500. According to this log, task 315793300 disabled access to the item files for item "gov.law.aera.standards.1999" via the archive.org interface for Internet Archive employees and the public. The Internet Archive finds no records indicating that said item files were deleted. (supplement to Dec. 2, 2014 Depo. Tr. at p. 116).

I DECLARE, under the penalty of perjury, that the foregoing is true and correct to the best of my personal knowledge.

By: 
Name: Christopher Butler
Title: Office Manager, Internet Archive
Date: 1/20/15

IT IS HEREBY STIPULATED and agreed, by and between the parties, through their undersigned counsel, that the statements set forth above by Internet Archive may be used in this litigation at trial or on a dispositive motion, as if they were testimony given by Internet Archive under Fed. R. Civ. P. 31.

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PUBLIC.RESROUCE.ORG, INC.
January 23, 2015

{431384US; 11454241_1.DOCX}

CERTIFICATE OF SERVICE

Pursuant to Fed.R.Civ.P. 5(b)(2)(E) and by agreement of the parties, I hereby certify that on January 23, 2015, the foregoing **DECLARATION OF INTERNET ARCHIVE AND STIPULATION OF THE PARTIES** was served via e-mail upon Defendant's counsel to:

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