

EXHIBIT B

1:14-cv-00857-TSC-DAR

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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3 American Society for Testing,)
Materials, et al.) File No: CV 13-1215
4)
Plaintiffs,)
5) Date: December 4, 2014
vs.) Time: 11:30 a.m.
6)
Public.Resource.Org, Inc.,) MOTION HEARING
7)
Defendant.)
8

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10 American Educational)
Research Association,)
Inc., et al.) File No: CV 14-857
11)
Plaintiffs,)
12) Date: December 4, 2014
vs.) Time: 11:30 a.m.
13)
Public.Resource.Org, Inc.,) MOTION HEARING
14)
Defendant.)
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18 TRANSCRIPT OF MOTION HEARING
HELD BEFORE
19 THE HONORABLE TANYA S. CHUTKAN
UNITED STATES DISTRICT JUDGE
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22 APPEARANCES:

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1 THE COURT: Please come forward.

2 MR. HUDIS: Good morning, Your Honor. Jonathan
3 Hudis for the plaintiffs in the 857 case, AERA, APA, and
4 NCME.

5 MS. COONEY-PORTER: Kathleen Cooney-Porter from
6 Oblon, Spivak, same plaintiffs.

7 THE COURT: Mr. Stoltz, are you here on that case
8 as well?

9 MR. STOLTZ: Yes, I am, Your Honor.

10 THE COURT: We have Miss Cooney-Porter and Mr.
11 Hudis for the 857, we have Mr. Fee, Mr. Klaus. And is there
12 somebody else?

13 MR. STEINTHAL: Mr. Steintal.

14 THE COURT: Your name wasn't on the list. Okay.
15 I can't promise I'm going to remember all of this, but I'm
16 going to do my best.

17 First question I need to ask is, obviously, these
18 cases have not been consolidated. And under the rules, it
19 doesn't appear that they have to be. But I'm going to ask
20 the parties if they want them consolidated?

21 MR. HUDIS: No, Your Honor. On behalf of the
22 plaintiffs in the 857 case, no, we do not want
23 consolidation.

24 THE COURT: Okay. That's fine.

25 MR. STOLTZ: Your Honor, on behalf of Public

1 Resource, we also do not want them consolidated.

2 THE COURT: Great. We're a consensus. We will
3 not consolidate the cases. But we are here on the joint
4 motion for a jury -- motion to strike the jury demand. The
5 arguments are similar in the case. And so let me hear
6 from -- who wants to go first? Maybe I'll do it that way.

7 MR. HUDIS: We settled on Mr. Fee.

8 THE COURT: All right. Mr. Fee, you drew the
9 short straw.

10 MR. FEE: Thank you, Your Honor. As you know,
11 this case involves three not-for-profit standards
12 development organizations that write standards to encourage
13 consistent practices among private actors, with the goals of
14 advancing public safety, ensuring compatibility, and
15 spurring innovation. The cost of creating these standards
16 are underwritten, at least in part, by the licensing and
17 sale of the standards that are written by these SDOs, as
18 they're called.

19 From time to time government entities incorporate
20 by reference some of these standards. You know, any
21 government throughout the United States. And in those
22 circumstances, the SDOs make sure that these standards are
23 reasonably available to the public. Just by way of example,
24 ASTM provides access to all standards that are incorporated
25 by reference by the federal government on a free online