

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR TESTING AND)
MATERIALS d/b/a ASTM)
INTERNATIONAL, et al.)

Plaintiffs,)

Civil Action No. 1:13-cv-01215-TSC

v.)

PUBLIC.RESOURCE.ORG, INC.,)

Defendant.)

_____)

UNOPPOSED MOTION FOR LEAVE TO FILE
SECOND AMICUS CURIAE BRIEF IN SUPPORT OF PLAINTIFFS’ SECOND
MOTION FOR SUMMARY JUDGMENT

The American National Standards Institute, Inc. (“ANSI”), International Association of Plumbing & Mechanical Officials (“IAPMO”), National Electrical Manufacturers Association (“NEMA”), and North American Energy Standards Board (“NAESB”), respectfully move for leave to file a second *amicus curiae* brief in support of the Second Motion for Summary Judgment filed by the Plaintiffs in the above-referenced matter.

1. ANSI is a not-for-profit membership organization that, for more than 97 years, has administered and coordinated the voluntary standardization system in the United States. Comprised of government agencies, organizations, companies, consumer groups, academic, and international bodies, ANSI represents the interests of more than 125,000 companies and 3.5 million professionals and hundreds of standards developing organizations (“SDO” or “SDOs”). ANSI regularly represent the interests of its members in matters before Congress, the Executive Branch and the courts by sharing its expertise relating to the intersection of standards and

copyright law, through Congressional testimony, responses to Federal Agency solicitations and prior *amicus* filings.

2. ANSI and its SDO members, have a substantial interest in the outcome of this case. The copyrighted standards at issue are part of a large and important ecosystem of creative works developed by not-for-profit SDOs. These SDOs create and maintain at their own substantial expense their copyrighted standards and make them available to interested parties, government regulators, and the public at large. Loss of copyright protection for these works would drastically undermine the ability of these organizations to fund the ongoing creation and updating of these important works, and would therefore harm the governments and the public who benefit from and rely on their work. ANSI and the other *amici* are uniquely suited to address and explain the policy and legal implications that would arise from a loss of copyright protection on SDO-authored works incorporated by reference into Federal regulations.

3. This Court has allowed *amicus curiae* participation when the *amicus* “has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” Jin v. Ministry of State Security, 557 F. Supp. 2d 131, 137 (D.D.C. 2008) (quoting Ryan v. Commodity Futures Trading Comm’n, 125 F.3d 1062, 1064 (7th Cir. 1997)); Cobell v. Norton, 246 F. Supp. 2d 59, 62 (D.D.C. 2003). Given ANSI’s role as the national coordinating body that facilitates the standards-development system in the United States by accrediting standards developers, ANSI’s (and its accredited SDO’s) unique perspective will help the court in understanding the context of the current debate as well as the implications for the SDO community of a decision in this case that would abrogate copyright protection for the important works of SDOs.

4. The Court authorized the filing of *amicus curiae* briefs in this matter by its October 2, 2019 Minute Order setting a filing deadline of November 25, 2019 which was subsequently amended to December 6, 2019.

DATED: December 6, 2019

Respectfully Submitted,

CARTER LEDYARD & MILBURN LLP

MORRIS, MANNING & MARTIN, LLP

/s/ Gerald W. Griffin

Gerald W. Griffin

(Admitted Pro Hac Vice)

2 Wall Street

New York, NY 10005

griffin@clm.com

Telephone: (212) 732-3200

Facsimile: (212) 732-3232

/s/ Bonnie Y. Hochman Rothell

Bonnie Y. Hochman Rothell

D.C. Bar # 421606

1401 Eye Street, N.W., Suite 600

Washington, D.C. 20005

bhrothell@mmmlaw.com

Telephone: (202) 408-5153

Facsimile: (202) 408-5146