

EXHIBIT 2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE 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, CIVIL ACTION FILE

vs. NO. 1:13-CV-01215-EGS

PUBLIC.RESOURCE.ORG, INC.,

Defendant.

30(b)(6) VIDEOTAPED DEPOSITION OF

STEVEN COMSTOCK

March 5, 2015

10:20 a.m.

1075 Peachtree Street

Suite 3625

Atlanta, Georgia 30309

Lee Ann Barnes, CCR-1852, RPR, CRR

PAGES 1 - 199

1 A. The -- the -- the concerns that -- that --
 2 that ASHRAE has is to be able to maintain control
 3 over its -- its document for how it's -- it's used
 4 and distributed in the market in accordance with
 5 its -- with its terms.
 6 Whether there's a specific harm that's been
 7 seen from PR -- from the case at hand, I can't speak
 8 to that. But in -- in principle, the -- the
 9 organization sees harm if -- if it -- if -- if its
 10 documents are not able to be maintained.
 11 Q. And apart from that, has ASHRAE detected
 12 any harms, financially or otherwise, to itself
 13 arising from any acts, omissions, or operations of
 14 Public Resource?
 15 A. I -- I've got no evidence. I have not seen
 16 cases of that.
 17 Q. Again, this overlaps a little bit with some
 18 earlier questions.
 19 What -- what are all the factors that you
 20 understand ASHRAE considered in deciding to provide
 21 free viewing to ASHRAE's standards?
 22 A. I was the one who actually launched that
 23 effort, and it was -- so much of what we do is a
 24 balance between trying to assist our members, trying
 25 to help provide a better explanation of the

Page 94

1 technology, and allowing our -- our business model
 2 to -- to -- to be supported. So it was a combination
 3 of those things.
 4 Number one was to -- in -- in theory, when
 5 we first decided to move in that direction, it was so
 6 that our members could see a document and be able to
 7 determine if they wished to buy it or not. So they
 8 had some familiarity that, yes, this is a document
 9 that would be worthwhile for us to have, and then --
 10 then to be able to build into that that notion that
 11 then it's going to lead to a sale.
 12 And then there are -- our mission statement
 13 means that we are to advance technology, so then the
 14 third element would be to make it available to other
 15 people who would have an interest in -- in looking at
 16 the standard, but -- but would not be an engineer or
 17 part of the engineering community, so wouldn't need
 18 the technical depth of the -- the document as a
 19 working tool.
 20 So it's those three factors that went into
 21 our decision to create the -- the free viewing,
 22 which, again, I'm -- I can't recall the exact year,
 23 but it's -- it's 15 years ago, maybe even a little
 24 bit longer than that.
 25 Q. How do the standards func- -- strike that.

Page 95

1 How do ASHRAE's standards function as
 2 working tools for persons who are part of the
 3 engineering community?
 4 A. ASHRAE's stan- -- they -- they provide a --
 5 well, many of the standards are method of test, so
 6 they provide methods of testing equipment so that
 7 equipment can be measured -- can be compared with
 8 similar levels of performance.
 9 Our -- some of the standards set
 10 definitions of refrigerants and classify those
 11 refrigerants in terms of their flammability, in terms
 12 of their toxicity, different characteristics.
 13 And then you have a third type of standard,
 14 which is a design standard, which actually provides
 15 guidance that says, "You shall have a -- your design
 16 shall do this in these circumstances."
 17 Q. And as you just mentioned, does that
 18 guidance take the form of specific requirements that
 19 are specified in the standard?
 20 A. It says "shall."
 21 Q. So that answer's yes?
 22 A. Yes.
 23 Q. Were there any other factors involved in
 24 the decision to provide free viewing of ASHRAE's
 25 standards?

Page 96

1 A. No. Those three factors were the -- that
 2 was the -- the -- the thrust of our initiative.
 3 Q. Are there any protocols or procedures at
 4 ASHRAE governing the granting of licenses or
 5 permission requests to anyone outside the
 6 organization? And you can limit your answer to
 7 standards.
 8 A. Typically, the factors that would be
 9 considered would be amount of content that's to be
 10 used. Typically, we would want it to be less than
 11 33 percent of a standard. That's not a hard and fast
 12 rule, but that's a general guideline that my
 13 assistant has.
 14 We would look at what the use is. If it's
 15 a classroom use, that's one thing; if it's posting it
 16 on the Internet, that's another thing; if it's a
 17 company brochure, that's another thing. So it's --
 18 it's -- it's how the distribution will be done and --
 19 and who is doing it, for example, a company, as
 20 opposed to an educator.
 21 Then there would also be the -- you know,
 22 our expectation that the -- the -- the -- that there
 23 be a citation so that the doc- -- the document is
 24 sourced. And in that particular case, it would be
 25 reprinted as it is unless it's specified that it

Page 97

1 CERTIFICATE
2
3
4 STATE OF GEORGIA:
5
6 COUNTY OF FULTON:
7
8 I hereby certify that the foregoing transcript was
9 taken down, as stated in the caption, and the
10 questions and answers thereto were reduced to
11 typewriting under my direction; that the foregoing
12 pages represent a true, complete, and correct
13 transcript of the evidence given upon said hearing,
14 and I further certify that I am not of kin or counsel
15 to the parties in the case; am not in the regular
16 employ of counsel for any of said parties; nor am I
17 in anywise interested in the result of said case.
18
19
20
21
22
23
24
25

Lee Ann Barnes
LEE ANN BARNES, CCR B-1852, RPR, CRR

Page 198

1 DEPOSITION ERRATA SHEET
2
3 Our Assignment No. 2023730
4 Case Caption: AMERICAN SOCIETY FOR TESTING
5 AND MATERIALS d/b/a ASTM INTERNATIONAL, et al. vs.
6 PUBLIC.RESOURCE.ORG, INC.
7
8 DECLARATION UNDER PENALTY OF PERJURY
9 I declare under penalty of perjury
10 that I have read the entire transcript of
11 my Deposition taken in the captioned matter
12 or the same has been read to me, and
13 the same is true and accurate, save and
14 except for changes and/or corrections, if
15 any, as indicated by me on the DEPOSITION
16 ERRATA SHEET hereof, with the understanding
17 that I offer these changes as if still under
18 oath.
19 Signed on the _____ day of
20 _____, 20____.
21
22 _____
23 STEVEN COMSTOCK
24
25

Page 199