

1	UNITED STATES DISTRICT COURT
0	FOR THE DISTRICT OF COLUMBIA
2	AMERICAN SOCIETY FOR : Case No.
3	TESTING AND MATERIALS d/b/a: 1:13-cv-01215-PSC-DAR
2	ASTM INTERNATIONAL;
4	
1	NATIONAL FIRE PROTECTION :
5	ASSOCIATION, INC.; and :
-	:
б	AMERICAN SOCIETY OF :
	HEATING, REFRIGERATING, :
7	AND AIR-CONDITIONING :
	ENGINEERS, INC. :
8	Plaintiffs, :
	:
9	vs. :
	:
10	PUBLIC.RESOURCE.ORG, INC., :
	Defendant. :
11	:
	AND RELATED COUNTERCLAIMS. :
12	
13	
14	Videotaped 30(b)(6) deposition
15	of American Society for Testing & Materials,
16	through DANIEL SMITH, held in the offices of
17	Veritext Philadelphia, 1801 Market Street,
18	Ten Penn Center, Suite 1800, Philadelphia,
19	Pennsylvania 19103, commencing at 10:43 a.m.,
20	July 24, 2015, before Linda Rossi Rios, a
21	Federally Approved RPR, CCR and Notary
22	Public.
23	
24	
25	PAGES 1 - 292
	Page 1

1	giving your best testimony today?	1	technical committee?
2	A. No.	2	A. A group of experts that develop
3	Q. Mr. Smith, what do you do for a	3	standards.
4	living?	4	Q. And who are those experts?
5	A. I work for ASTM International.	5	A. Volunteers.
6	Q. And when you say you work for	6	Q. And are they only volunteers?
7	ASTM International, what do you mean?	7	MR. FEE: Objection. Vague.
8	A. I'm the vice	8	THE WITNESS: For the most part
9	MR. FEE: Objection. Vague.	9	from my knowledge, they're all
10	You can answer.	10	volunteers.
11	THE WITNESS: I'm the vice	11	BY MR. BECKER:
12	president of technical committee	12	Q. How does a technical committee
13	operations.	13	go about developing standards as you say?
14	BY MR. BECKER:	14	A. They use our consensus process.
15	Q. And what is technical committee	15	Q. What is the consensus process?
16	operations?	16	A. It's two levels of voting
17 18	<ul><li>A. It's a division within ASTM.</li><li>Q. What does technical committee</li></ul>	17 18	starting with the subcommittee and then the main committee.
18 19	Q. What does technical committee mean?	18 19	
20		19 20	Q. What's the difference between a subcommittee and a main committee?
20 21	A. Technical committees develop standards.	20 21	A. A subcommittee is typically
21	Q. When you say "standards," what	21	smaller with a more narrow interest. A main
22	do you mean by that?	22	committee has broader interest.
23	A. Consensus standards.	24	Q. So within a technical
25	Q. By "consensus standards," what	25	committee, then, there is is there just
20	Q. Dy consensus standards, what Page 14	20	Page 16
1	do you mean by that?	1	one main committee?
1	do you mean by that?	$\frac{1}{2}$	one main committee?
2	A. Documents.	2	A. A main committee is a technical
2 3	<ul><li>A. Documents.</li><li>Q. Any documents?</li></ul>	2 3	A. A main committee is a technical committee.
2 3 4	<ul><li>A. Documents.</li><li>Q. Any documents?</li><li>A. Specifications, test methods,</li></ul>	2 3 4	<ul><li>A. A main committee is a technical committee.</li><li>Q. And are there numerous</li></ul>
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	<ul> <li>A. Documents.</li> <li>Q. Any documents?</li> <li>A. Specifications, test methods,</li> <li>practices, guides, classifications and</li> <li>terminology.</li> <li>Q. Does the term "standards" have</li> <li>any specific meaning to you?</li> <li>MR. FEE: Objection. Vague.</li> <li>THE WITNESS: I'm not sure what</li> <li>you mean by that.</li> <li>BY MR. BECKER:</li> <li>Q. Can you define what a standard</li> <li>is?</li> <li>A. Just what I said previously,</li> <li>it's a test method, a specification or</li> <li>terminology.</li> <li>Q. And you say that the technical</li> <li>committees develop standards. How do</li> <li>actually, let me back up.</li> <li>What is a technical committee?</li> <li>A. I'm not sure how to answer</li> </ul>	$\begin{array}{c} 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19 \\ 20 \\ 21 \\ 22 \\ 23 \end{array}$	<ul> <li>A. A main committee is a technical committee.</li> <li>Q. And are there numerous subcommittees?</li> <li>A. Yes.</li> <li>Q. And how many subcommittees on average?</li> <li>A. It varies.</li> <li>Q. Could you give me a range by which it might vary?</li> <li>A. The best of my knowledge, maybe from 3 to 40, 50.</li> <li>Q. When you say there is a consensus process that involves voting in the subcommittee and then voting at the main committee level, can you elaborate on that process?</li> <li>MR. FEE: Objection. Vague. THE WITNESS: They vote on standards so the folks on that committee will vote on whether or not they agree or not agree with the</li> </ul>

5 (Pages 14 - 17)

1       A. It was just in the materials         2       Q. Well, this is thisting of standards that ASTM is asserting are standards that ASTM is asserting are disputched by Public Resource.Org.       1       A. It was just in the materials         4       infringed by Public Resource.Org.       4       of Copyright Registration you viewed         5        5       yesterday?         6       A. No.       6       A. No.         7       COpyright Registration, Bates       7       6         8       ASTM000001 - ASTM000168, was marked       8       Copyright Registration that you looked at?         9       A. Ibelieve so.       0       D. July out have any discussions         11       With anyone in preparation for your       4       deposition today concerning Certificates of         13       marked as Exhibit 1291. These are the       13       Copyright Registration by ASTM?         14       document?       16       THE WITNESS: Yes.       17         15       to ASTM000168. Do you recognize this       16       THE WITNESS: Yes.       19         16       document.       16       THE WITNESS: Yes.       19       A. I thad a discussion with Kathe         12       Q. What is Exhibit 1291?       23       A. Other than the legal team, I       24				
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32 (Pages 122 - 125)

1       A. I think she started back in       2         2       1984, I think she may have said.       3         3       Q. Do you know who was filling out       4         4       ASTM Certificate of Copyright Registration       5         5       forms prior to Kathe Hooper?       6         6       A. A name was mentioned yesterday,       7         7       but I don't recall the name.       2a?         8       Q. Was that individual Robert L.       9         9       Meltzer?       9         10       A. I recognize that name, but I       10         11       don't know if Robert Meltzer was the one that       11         12       BY MR. BECKER:       10         13       Q. Do you know who Robert Meltzer       13         14       is?       2.       MR. FEE: Objection. Asked and         16       of publications.       11       Kathe Hooper say what         17       Q. Did Kathe Hooper say what       17       THE WITNESS: That the copyright         18       communications with the copyright office led       19       predecessor to check box 2a?         18       communications with the copyright office that led       2       20       Did Kathe Hooper so         <
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<ul> <li>5 Q. Do you know if Kathe Hooper had</li> <li>6 any interactions with the copyright office in</li> <li>7 which the copyright office told her to fill</li> <li>8 out the registrations by checking box 2a?</li> <li>9 A. I don't believe she did.</li> <li>10 Q. What is Kathe Hooper's role at</li> <li>11 ASTM?</li> <li>12 A. She assists the vice president</li> <li>13 of publications.</li> <li>14 Q. How long has Kathe Hooper held</li> <li>5 registration?</li> <li>6 A. I don't know.</li> <li>7 Q. Do you have any knowledge about</li> <li>8 what information the copyright office had</li> <li>9 obtained from ASTM when it said to check box</li> <li>10 2a?</li> <li>11 A. No.</li> <li>12 Q. If ASTM had provided different</li> <li>13 facts concerning the material that was being</li> <li>14 Q. How long has Kathe Hooper held</li> </ul>
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13 of publications.13 facts concerning the material that was being14Q. How long has Kathe Hooper held14 copyrighted, that might call for a different
14 Q. How long has Kathe Hooper held 14 copyrighted, that might call for a different
A. I can't say for certain, but I 16 the copyright registration form. Correct?
17 think she said yesterday, since about 1984 17 MR. FEE: Objection. Calls for
18 she was in that role. 18 speculation. Calls for a legal
19 Q. And currently the vice 19 conclusion. Calls for expert
20 president of publications is John Pace. 20 testimony. You can answer if you
21 Correct? 21 know.
22 A. Correct. 22 THE WITNESS: I don't know.
23 Q. Do you know how long John Pace 23 BY MR. BECKER:
24 has held that role for? 24 Q. Why is ASTM listed as the
25 A. It's been about 11 years. 25 author under section 2a?
Page 127 Page 129

<sup>33 (</sup>Pages 126 - 129)

1A. I think the copyright office1concerning how to fill out section 2 at 0 the3Q. Did Kathe Hooper tell you that3MR. FEE: Objection. Calls for4the copyright office said to fill out the4seculation. Fee yond the scope of his5copyright registration form by putting6designation. You can answer.6American Society for Testing and Materials6THE WTINESS: I don't know.7anything else about listing ASTM under the7Maybe the people that worked in our8A. Yes.9that that question was - at the time9Q. Did Kathe Hooper tell you9that that question was - at the time10anything else about listing ASTM under the10that that question was - at the time11us.13Q. Do you know who was the12A. No.12BY MR. BECKER:13Q. Are there any documents that13Q. Do you know who was the14reflect ASTM's communication with the14president of publications as of the time that15registration?7RASTM communicated with the copyright office21opyright office concerning how to fill outsection 2 at the forms for copyright16registration?2A. I believe it was Bob Meltzer,17section 2 at the forms for copyright1moment.23BY MR. BECKER:23MR. FEE: Objection. Same24opyright office concerning how to fill out125reflect ASTM's communica				
3Q. Did Kathe Hooper tell you that 43MR, FEE: Objection. Calls for speculation. Beyond the scope of his designation. You can answer.6American Society for Testing and Materials under name of author, section 2a?7Maybe the people that worked in our publications department at the time9Q. Did Kathe Hooper tell you anything else about lising ASTM under the name of author field in section 2a?7Maybe the people that worked in our publications department at the time11name of author field in section 2a?19that that question was at the time that that question was at the time that that question was at the time that that questions department at the time that that question was at the time that the copyright office concerning how to fill out section 2a of the forms for copyright registration?12copyright office concerning how to fill out section 2a of the forms for copyright registration?2ffleA. The that that maware o				-
4the copyright office said to fill out the 544speculation. Beyond the scope of his designation. You can answer.7Marce for Testing and Materials 06THE WITNESS: 1 don't know.7Maybe the people that worked in our anything else about listing ASTM under the 107Maybe the people that worked in our publications department at the time 1010anything else about listing ASTM under the 119that that question was at the time 1012A. No.12BY MR. BECKER: 1313Q. Do you know who was the 1413Q. Are there any documents that 1513Q. Do you know who was the 1414reflect ASTM's communication with the registration?13Q. Do you know who was the 1415copyright office concerning how to fill out section 2 a of the forms for copyright 17registration forms?18MR. FEE: Objection. Calls for reflect ASTM's communication with the Page 1301moment.21copyright office concerning how to fill out section 2 a of the forms for copyright registration?2NR. FEE: Mait, is now a good21copyright office concerning how to fill out answeri again.1moment.122of.20Q. Piease turn to page ASTM00010723BY MR. BECKER: registration?3Q. Piease turn to page ASTM0001074masweri again.11moment.5objections as before, plus you just of.6registration with the registration?6mas				
5copyright registration form by putting A merican Society for Testing and Materials under name of author, section 2a? Pdesignation. You can answer: THE WITNESS: I don't know.8A. Yes. P7Maybe the people that worked in our Maybe the people that worked in our publications department at the time that that question was at the time to that the copyright office had informed us.10anything else about listing ASTM under the anything else about listing ASTM under the to anything else about listing ASTM under the to copyright folfice correning how to fill out section 2a of the forms for copyright registration forms?8MR BECKER: to copyright registration forms?13Q. Are there any letters that 20Section 2.0 class for treflect ASTM's communication with the registration?1Mement. to Do you know if Robert Meltzer to Do you know for sure. 2221copyright office concerning how to fill out section 2a of the forms for copyright registration?1moment. to Do you know if a break?25reflect ASTM's communication with the copyright office concerning how to fill out section 2a of the forms for copyright registration?1moment. to MR, FEE: Objection. Same of.1copyright office concerning how to fill out section 2a of the forms for copyright registration?1moment. te page 1302do mayber registration?21moment.<	3			÷
6American Society for Testing and Materials under name of author, section 2a?6THE WITNESS: I don't know.9Q. Did Kathe Hooper tell you9that that question was at the time10anything else about listing ASTM under the 1110that that question was at the time11anything else about listing ASTM under the 1111us.12A. No.12BY MR. BECKER:13Q. Are there any documents that 14reflect ASTM's communication with the 151215registration?13Q. Do you know who was the 1416section 2a of the forms for copyright 17registration forms?18MR. FEE: Objection. Calls for 1918A. I believe it was Bob Meltzer, 1920scope. You can answer.20Q. Do you know for sure.21THE WITNESS: Not that I'm aware 20cf.2322of.A. I believe it was Bob Meltzer, 1923BY MR. BECKER:23MR. FEE: Matt, is now a good 2424Q. Are there any letters that 2525MR. BECKER: 2621copyright office concerning how to fill out 2714MR. FEE: Objection. Same 273Q. Please turn to page ASTM000107 44Fage 1304MR. FEE: Objection. Same 43205Objections as before, plus you just 56166answerid taguin. 47107MR. BECKER: 4202010	4	· · ·	4	
7under name of author, section 2a?7Maybe the people that worked in our8A. Yes.9Did Kathe Hooper tell you9that that questions department at the time10anything else about listing ASTM under the10that that questions department at the time11name of author field in section 2a?11us.12A. No.12BY MR. BECKER:13Q. Are there any documents that13Q. Do you know who was the14reflect ASTM's communication with the15ASTM communication with the15copyright office concerning how to fill out16regarding how to fill out section 2a of the16registration?17copyright registration forms?18MR. FEE: Objection. Calls for18A. I believe it was Bob Meltzer,19speculation. This is beyond the100. Do you know for sure.21THE WITNESS: Not that I'm aware23MR. FEE: Matt, is now a good24Q. Are there any letters that2425MR. BECKER:25reflect ASTM's communication with the 2526MR. BECKER:21copyright office concerning how to fill out 261moment.25copyright office concerning how to fill out 261moment.26od eth forms for copyright22BY MR. BECKER:21copyright office concerning how to fill out 261moment.26od eth forms for copyright6registration fhat ASTM has provided to 27<	5		5	designation. You can answer.
8A. Yes.8publications department at the time9Q. Did Kathe Hooper tell you9that that question was - at the time10anything else about listing ASTM under the9that that question was - at the time11name of author field in section 2a?11us.12A. No.12BY MR. BECKER:13Q. Are there any documents that14reflect ASTM's communication with the14reflect ASTM's communication with the15ASTM communicated with the copyright office15copyright office concerning how to fill out15ASTM communication forms?16mR. FEE: Objection. Calls for18A. I believe it was Bob Meltzer,17speculation. This is beyond the20Q. Do you know if Robert Meltzer20or.21Are there any letters that2321copyright office concerning how to fill out24YR. BECKER:23BY MR. BECKER:23MR. FEE: Objection. Same124copyright office copyright25MR. BECKER:25objections as before, plus you justanswerd that question. You can726answerd that question. You can7answerd that question with the27copyright office concerning how to fill out21moment.28MR. FEE: Objection. Calls for22Of Exhibit 1291. I will represent to you30dot file forms for copyright6registration that ASTM has provided to31meres any internal memos	6	American Society for Testing and Materials	6	THE WITNESS: I don't know.
9Q. Did Kathe Hooper tell you 109that that question was at the time that the copyright office had informed us.10anything else about listing ASTM under the tree of author field in section 2a?10111111Q. Are there any documents that copyright office concerning how to fill out section 2a of the forms for copyright registration?12BY MR. BECKER: BY mr. BECKER:13Q. Do you know who was the the regarding how to fill out section 2a of the copyright registration forms?12MR. FEE: Objection. Calls for section 2a of the forms for copyright of.18A. I believe it was Bob Meltzer, 200. Do you know if Robert Meltzer21The WITNESS: Not that I'm aware copyright office concerning how to fill out section 2a of the forms for copyright registration?1moment.25reflect ASTM's communication with the copyright office concerning how to fill out answer it again.1moment.26copyright office concerning how to fill out section 2a of the forms for copyright of.1moment.26objections as before, plus you just answer it again.1moment.37registration?3Q. Please tum to page ASTM0001074MR. FEE: Objection. Calls for it areflect ASTM's communication with the copyright office conc	7	under name of author, section 2a?	7	Maybe the people that worked in our
10anything else about listing ASTM under the 1110that the copyright office had informed us.12A. No.11us.13Q. Are there any documents that reflect ASTM's communication with the copyright office concerning how to fill out section 2a of the forms for copyright13Q. Do you know who was the regarding how to fill out section 2a of the regarding how to fill out section 2a of the registration?13A. Do you know who was the regarding how to fill out section 2a of the regarding how to fill out section 2a of the regarding how to fill out section 2a of the registration forms?16regarding how to fill out section 2a of the regarding how to fill out section 2a of the regarding how to fill out section 2a of the forms for copyright18A. I don't know for sure.21of.23MR. FEE: Mat, is now a good 2424time to take a break?25reflect ASTM's communication with the section 2a of the forms for copyright registration?1moment.2copyright office concerning how to fill out section 2a of the forms for copyright registration?1moment.3registration?3Q. Please turn to page ASTM0001074MR. FEE: Objection. Same of.5that this is the earliest copyright of answerd that question. You can a nswerd that question. You can section 2a of the forms for copyright14MR. FEE: Objection. Calls for r10"Moment."5objections as before, plus you just a section 2a of the forms for copyright16matherialregistration that ASTM is a	8	A. Yes.	8	publications department at the time
11       name of author field in section 2a?       11       us.         12       A. No.       12       BY MR. BECKER:         13       Q. Are there any documents that       13       Q. Do you know who was the         14       reflect ASTM's communication with the       0. Do you know who was the         15       copyright office concerning how to fill out       16       regarding how to fill out section 2a of the         16       registration?       18       MR. FEE: Objection. Calls for       18       A. I believe it was Bob Meltzer,         20       scope. You can answer.       20       Q. Do you know if Robert Meltzer         21       THE WITNESS: Not that I'm aware       7       Robert Meltzer.         22       of.       21       Rethere any letters that       22         25       reflect ASTM's communication with the Page 130       22       MR. FEE: Wa can in just a Page 132         1       copyright office concerning how to fill out section 2a of the forms for copyright       1       moment.         25       section 2a of the forms for copyright       3       Q. Please turm to page ASTM000107         4       MR. FEE: Objection. Same       1       moment.       2         5       of.       Q. Plase turm to page ASTM000107       2	9	Q. Did Kathe Hooper tell you	9	that that question was at the time
12       A. No.       12       BY MR. BECKER:         13       Q. Are there any documents that       13       Q. Do you know who was the         14       reflect ASTM's communication with the       15       ASTM communicated with the copyright office         16       section 2a of the forms for copyright       16       registration forms?       18       A. I believe it was Bob Meltzer,         17       registration?       18       A. I believe it was Bob Meltzer,       20       Q. Do you know if Robert Meltzer         21       scope, You can answer.       20       Q. Do you know if Robert Meltzer       21       is still alive?         22       of.       22       A. I don't know for sure.       20       Q. Do you know if Robert Meltzer         23       BY MR. BECKER:       23       MR. FEE: Matt, is now a good       24       time totake a break?         25       reflect ASTM's communication with the       25       MR. BECKER:       28       MR. BECKER:       30       Q. Please turn to page ASTM000107         4       MR. FEE: Objection. Same       4       of Exhibit 1291. I will represent to you       5       that affect ASTM's communication with the       29       OF AUTHOR, 'do you see that it lists         10       Q. Are there any internal memos       11       ant theresay,	10	anything else about listing ASTM under the	10	that the copyright office had informed
13Q. Are there any documents that13Q. Do you know who was the14reflect ASTM's communication with thepresident of publications as of the time that15copyright office concerning how to fill out15ASTM communication with the17registration?18A. I believe it was Bob Meltzer,19speculation. This is beyond the19Robert Meltzer.20scope. You can answer.20Q. Do you know if Robert Meltzer21THE WITNESS: Not that I'm aware21is still alive?22of.22A. I don't know for sure.23BY MR. BECKER:23MR. FEE: Matt, is now a good24Q. Are there any letters that25MR. BECKER:25reflect ASTM's communication with the section 2a of the forms for copyright25MR. BECKER:21copyright office concerning how to fill out section 2a of the forms for copyright1moment.25objections as before, plus you just1moment.26of.9Of AUTHOR, 'do you see that it lists7answer it again.908THE WITNESS: Not that I'm aware10'American Society for Testing and Materials,''10Q. Are there any internal memos11and then says, ''NAME11Q. Are there any internal memos12ContHTHQ, 'do you see that it lists11Q. Are there any internal memos11and then says, ''Wat is author's12that reflect ASTM's communication with the12 <td>11</td> <td>name of author field in section 2a?</td> <td>11</td> <td>us.</td>	11	name of author field in section 2a?	11	us.
14reflect ASTM's communication with the copyright office concerning how to fill out section 2a of the forms for copyright14president of publications as of the time that ASTM communicated with the copyright office registration?18MR. FEE: Objection. Calls for speculation. This is beyond the oscope. You can answer.18A. I believe it was Bob Meltzer, 1920scope. You can answer.20Q. Do you know if Robert Meltzer21THE WITNESS: Not that I'm aware Page 13020Q. Do you know if Robert Meltzer22of.22A. I don't know for sure.23BY MR. BECKER: reflect ASTM's communication with the registration?23MR. FEE: Matt, is now a good24Copyright office concerning how to fill out section 2a of the forms for copyright objections as before, plus you just objections as before, plus you just1moment.2section 2.1, in the section that says, "NAME3Q. Please turn to page ASTM0001074MR. FEE: Objection. Same of.1moment.5objections as before, plus you just of.1moment.6answered that question. You can r answer it again.1moment.7Q. Are there any internal memos that reflect ASTM's communication with the copyright office concerning how to fill out section 2.1, in the section that says, "NAME9of.14A. Yes.10MR. FEE: Objection. Calls for speculation. I's beyond the scope of the seignation. You can answer if you know.1516MR. FEE: Objection. Calls for spo	12	A. No.	12	BY MR. BECKER:
14reflect ASTM's communication with the to copyright office concerning how to fill out section 2a of the forms for copyright registration?14president of publications as of the time that to ASTM communicated with the copyright office regarding how to fill out section 2a of the registration forms?18MR. FEE: Objection. Calls for speculation. This is beyond the scope. You can answer. 2118A. I believe it was Bob Meltzer, 0. Do you know if Robert Meltzer22of. 2224Q. Are there any letters that Page 13023MR. FEE: Matt, is now a good time to take a break?24Q. Are there any letters that registration?24MR. FEE: Matt, is now a good time to take a break?25reflect ASTM's communication with the Page 1301moment.2section 2a of the forms for copyright objections as before, plus you just objections as before, plus you just objections as before, plus you just of.1moment.2answerei that question. You can r answer it again.1moment.23BY MR. BECKER: of.101moment.4objections as before, plus you just of.6registration? registration?110BY MR. BECKER: r1011moment.11and then says, "NAME10712by MR. BECKER: r1011moment.13copyright office concerning how to fill out section 2a of the forms for copyright r15OF AUTHOR," do you see that it lists13registration?10 <td< td=""><td>13</td><td>Q. Are there any documents that</td><td>13</td><td>Q. Do you know who was the</td></td<>	13	Q. Are there any documents that	13	Q. Do you know who was the
15       copyright office concerning how to fill out       15       ASTM communicated with the copyright office         16       section 2a of the forms for copyright       16       regarding how to fill out section 2a of the         17       registration?       17       copyright registration forms?       18         18       MR. FEE: Objection. Calls for       18       A. I believe it was Bob Meltzer,         20       scope. You can answer.       19       Robert Meltzer.         21       THE WITNESS: Not that I'm aware       20       Q. Do you know if Robert Meltzer         22       of.       23       MR. FEE: Math, is now a good         24       Q. Are there any letters that       25       moment.         25       reflect ASTM's communication with the       Page 130       MR. FEE: We can in just a         26       objections as before, plus you just       6       answerd that question. You can       7         4       MR. FEE: Objection. Same       1       moment.       2       BY MR. BECKER:         21       objections as before, plus you just       6       of Exhibit 1291. I will represent to you       5         5       objections as before, plus you just       6       registration?       6         6       answeri tagain.       7 </td <td>14</td> <td></td> <td>14</td> <td></td>	14		14	
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20THE WITNESS: Not that I'm aware20A. Yes.21of.21Q with a date of January 31,22BY MR. BECKER:221980?23Q. Who would know whether any23A. Yes.24documents exist that reflect ASTM's24Q. Is it your belief that as of at25communications with the copyright office25least January 31, 1980, Kathe Hooper's		÷		
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22BY MR. BECKER:221980?23Q.Who would know whether any23A.Yes.24documents exist that reflect ASTM's24Q.Is it your belief that as of at25communications with the copyright office25least January 31, 1980, Kathe Hooper's				
23Q.Who would know whether any documents exist that reflect ASTM's23A.Yes.24documents exist that reflect ASTM's24Q.Is it your belief that as of at25communications with the copyright office25least January 31, 1980, Kathe Hooper's				-
24documents exist that reflect ASTM's24Q. Is it your belief that as of at25communications with the copyright office25least January 31, 1980, Kathe Hooper's				
25 communications with the copyright office 25 least January 31, 1980, Kathe Hooper's	23			
			24	Q. Is it your belief that as of at
	24	documents exist that reflect ASTM's		- ·

34 (Pages 130 - 133)

1	predecessor had had a conversation with the	1	Q. Mr. Smith, do you know which			
2	copyright office in which they instructed her	2	standards at issue in this litigation each			
3	to check the box saying that the scratch	3				
4	that.	4	corresponds to?			
5	Is it your understanding that	5	A. I'm not sure I get the			
6	as of at least January 31, 1980, someone at	6	question.			
7	ASTM had had a conversation with someone from	7	Q. If you look at, we were just			
8	the copyright office in which that person	8	discussing ASTM000107 in Exhibit 1291, that's			
9	from ASTM was instructed to check the box	9	a standard, the title of the work is "1980			
10	saying that the work was a "work made for	10	ANNUAL BOOK OF ASTM STANDARDS, Part			
11	hire," and listing the name "American Society	11	1:Steel-Piping, Tubing, Fittings." Is that			
12	for Testing and Materials" under the "NAME OF	12	correct?			
13	AUTHOR" field?	13	A. Correct.			
14	MR. FEE: Objection to form.	14	Q. Do you know how many standards			
15	THE WITNESS: I'm not sure I	15	are in the 1980 Annual Book of ASTM			
16	understand the question. If you could	16	Standards, Part 1:Steel-Piping, Tubing,			
17	rephrase it, I'm a little lost.	17	Fittings?			
18	BY MR. BECKER:	18	A. No.			
19	Q. Sure. Is it your after	19	MR. FEE: Objection. Beyond the			
20	looking at this document, page ASTM000107 to	20	scope of his designation.			
21	108, is it your understanding that as of at	21	THE WITNESS: No, I don't.			
22	least January 31, 1980, someone at ASTM had a	22	MR. BECKER: I would disagree, I			
23	conversation with someone from the copyright	23	don't think this is beyond the scope			
24	office in which that person from ASTM was	24	of his designation. This has to do			
25	instructed to check the box saying that the	25	with the with copyright ownership			
	Page 134		Page 136			
1	work was a "work made for hire," and listing	1	and the chain of title. This is			
2	the names "American Society for Testing and	2	MR. FEE: You just asked him how			
3	Materials" under the "NAME OF AUTHOR" field?	3	many chapters essentially there were			
4	MR. FEE: Objection. Form. Go	4	in a book.			
5	ahead.	5	MR. BECKER: Well, that's one of			
6	THE WITNESS: Yeah, I believe	6	the questions I have, is related to			
7	that's right, I just don't know	7	this particular registration. It's a			
8	when that con I don't know when	8	registration for a work.			
9	that conversation exactly was made.	9	MR. FEE: We disagree for the			
10	BY MR. BECKER:	10	record.			
11	Q. But you believe it was as of at	11	BY MR. BECKER:			
12	least January 31, 1980?	12	Q. Are there multiple standards			
13	A. I don't know. It could have	13	listed in the 1980 Annual Book of ASTM			
14	been before that. I really don't know.	14	Standards, Part 1:Steel-Piping, Tubing,			
15	MR. BECKER: All right. We can	15	Fittings?			
16	go off the record.	16	MR. FEE: Same objection.			
17	VIDEOGRAPHER: The time is now	17	THE WITNESS: Yes.			
18	3:08. We're going off the video	18	BY MR. BECKER:			
19	record.	19	Q. How do you know that?			
20		20	A. Because it's our volume of			
21	(A recess was taken.)	21	standards and volumes contain more than one			
22		22	standard.			
23	VIDEOGRAPHER: The time is now	23	Q. Is there a way to confirm			
23	3:20. We're back on the video record.	24	excuse me, scratch that.			
25	BY MR. BECKER:	25	Do you know how to determine			
	Page 135		Page 137			
	<u> </u>		C C			

35 (Pages 134 - 137)

1	Annual Book of ASTM Standards, Part	1	A. Yes. Nothing is technically
2	1:Steel-Piping, Tubing, Fittings?	2	significant.
3	A. I don't know specifically if	3	Q. Returning to ASTM000108, just
4	there would be you know, if it was called	4	below where it lists the information under
5	the same thing, a Part 1 or because	5	"PREVIOUS REGISTRATION," it has a section
6	sometimes we have to reshuffle our volumes	6	that says, "COMPILATION OR DERIVATIVE WORK"
7	depending as they get bigger, we have to	7	which says, "PREEXISTING MATERIAL." And then
8	manage the size of each volume. So I don't	8	below that it says, "1979 Annual Book of ASTM
9	know if it was would have been called Part	9	Standards, Part 1." And then below that,
10	1 or something else, but I also don't know if	10	"MATERIAL ADDED TO THIS WORK," it says,
11	the same exact standards that were in there	11	"Compilation of previously published text
12	in 1979 are not necessarily in there in 1980.	12	plus additional text."
13	Q. Would ASTM A370 1977e2 have	13	Do you know what that
14	been published in an Annual Book of ASTM	13	additional text is that was added to the 1979
15	Standards prior to 1980?	15	Annual Book of ASTM Standards, Part 1 to
16	A. Most yeah, most likely, yep.	16	create the 1980 Annual Book of ASTM
17	Q. Do you know why ASTM has not	17	
18	provided Public.Resource with the copyright		Standards, Part 1?
10		18	A. I don't know exactly what that
	registrations for any such volumes prior to	19	text was, but it's my guess is that it
20	1980?	20	means revisions to the standards that were
21	MR. FEE: Objection. Calls for	21	included in the 1979 book that are also
22	speculation. Beyond the scope of his	22	included in the 1980 book, but there are also
23	designation.	23	revisions, and any new standards that were
24	THE WITNESS: I don't know.	24	approved that were not in the 1979 book but
25	BY MR. BECKER:	25	made it to the 1980 book.
	Page 150		Page 152
1	Q. Why are some standards	1	Q. Is the basis of your previous
2	re-approved?	2	statement that typically the next years'
3	MR. FEE: Objection. Beyond the	3	Annual Book of Standards includes standards
4	scope of his designations.	4	that had been recently approved or changed in
5	THE WITNESS: The technical	5	that past year?
6	committees make the decision as to	6	MR. FEE: Objection.
7	whether or not they want to re-approve	7	Mischaracterizes his testimony. Vague
8	the standard through the consensus	8	and confusing.
9	process.	9	THE WITNESS: Can you restate
10	BY MR. BECKER:	10	that?
11	Q. And in what situations are	11	BY MR. BECKER:
12	standards re-approved?	12	Q. Yeah. Maybe I'll just ask you,
13	MR. FEE: Same objection.	13	what's the basis for your guess that the
14	THE WITNESS: If the committees	14	revisions to the standards that were included
15	want it's up to the committees. So	15	in the 1979 book are excuse me.
16			
1 10	if there's if the committees are	16	What is the basis for your
17	if there's if the committees are happy with the current state of the	16 17	What is the basis for your statement that your guess is that any
17	happy with the current state of the	17	statement that your guess is that any
18	happy with the current state of the standard and they don't feel like	17 18	statement that your guess is that any revisions to the 1979 book of standards that
18 19	happy with the current state of the standard and they don't feel like there's any revisions that are	17 18 19	statement that your guess is that any revisions to the 1979 book of standards that resulted in the 1980 book of standards is
18 19 20	happy with the current state of the standard and they don't feel like there's any revisions that are necessary, then they can initiate a	17 18 19 20	statement that your guess is that any revisions to the 1979 book of standards that resulted in the 1980 book of standards is attributable to new standards or revised
18 19 20 21	happy with the current state of the standard and they don't feel like there's any revisions that are necessary, then they can initiate a ballot for a re-approval.	17 18 19 20 21	statement that your guess is that any revisions to the 1979 book of standards that resulted in the 1980 book of standards is attributable to new standards or revised standards within that past year?
18 19 20 21 22	happy with the current state of the standard and they don't feel like there's any revisions that are necessary, then they can initiate a ballot for a re-approval. BY MR. BECKER:	17 18 19 20 21 22	statement that your guess is that any revisions to the 1979 book of standards that resulted in the 1980 book of standards is attributable to new standards or revised standards within that past year? MR. FEE: Objection. Vague.
18 19 20 21 22 23	<ul> <li>happy with the current state of the standard and they don't feel like there's any revisions that are necessary, then they can initiate a ballot for a re-approval.</li> <li>BY MR. BECKER:</li> <li>Q. And does that re-approval mean</li> </ul>	17 18 19 20 21 22 23	statement that your guess is that any revisions to the 1979 book of standards that resulted in the 1980 book of standards is attributable to new standards or revised standards within that past year? MR. FEE: Objection. Vague. Confusing.
18 19 20 21 22 23 24	<ul> <li>happy with the current state of the standard and they don't feel like there's any revisions that are necessary, then they can initiate a ballot for a re-approval.</li> <li>BY MR. BECKER:</li> <li>Q. And does that re-approval mean there are no changes from the previous</li> </ul>	17 18 19 20 21 22 23 24	statement that your guess is that any revisions to the 1979 book of standards that resulted in the 1980 book of standards is attributable to new standards or revised standards within that past year? MR. FEE: Objection. Vague. Confusing. THE WITNESS: I'm not sure I
18 19 20 21 22 23	<ul> <li>happy with the current state of the standard and they don't feel like there's any revisions that are necessary, then they can initiate a ballot for a re-approval.</li> <li>BY MR. BECKER:</li> <li>Q. And does that re-approval mean</li> </ul>	17 18 19 20 21 22 23	statement that your guess is that any revisions to the 1979 book of standards that resulted in the 1980 book of standards is attributable to new standards or revised standards within that past year? MR. FEE: Objection. Vague. Confusing.

39 (Pages 150 - 153)

1	IP Policy or assignments?	1		I declare under penalty of perjury		
2	MR. BECKER: Object as to form.	2	1	under the laws that the foregoing is		
3	THE WITNESS: There is	3	1	true and correct.		
4	additional language. This document	4				
5	identifies membership renewal Web	5		Executed on	, 20,	
6	screenshots for different types of	6	;	at,		
7	members. So I identified page 2, and	7				
8	then there's also additional language	8				
9	on page ASTM001796 as well as	9				
10	ASTM001798. And I believe that's it.	10				
11	MR. FEE: I have no other	11				
12	questions.	12		DANIEL SMITH		
13	Do you have any other questions	13				
14	or is he done?	14				
15	MR. BECKER: No, no redirect.	14				
16	MR. FEE: Great. Thank you.	15				
17	THE WITNESS: Thanks.					
17	VIDEOGRAPHER: The time is now	17				
		18				
19	7:57. This concludes the videotape	19				
20	deposition of Dan Smith.	20				
21		21				
22	(Witness excused.)	22				
23		23				
24	(Deposition concluded at 7:57	24				
25	p.m.)	25				
	Page 290				I	Page 292
1	CERTIFICATE					
$\begin{vmatrix} 2\\ 3 \end{vmatrix}$						
	I do hereby certify that I am a Notary					
4	Public in good standing, that the aforesaid					
5	testimony was taken before me, pursuant to notice, at the time and place indicated; that					
	said deponent was by me duly sworn to tell					
6	the truth, the whole truth, and nothing but					
7	the truth; that the testimony of said deponent was correctly recorded in machine					
	shorthand by me and thereafter transcribed					
8	under my supervision with computer-aided					
9	transcription; that the deposition is a true and correct record of the testimony given by					
	the witness; and that I am neither of counsel					
10	nor kin to any party in said action, nor interested in the outcome thereof.					
11	increased in the outcome thereof.					
	WITNESS my hand and official seal this					
12 13	7th day of August, 2015.					
14						
15						
16	Notary Public					
17						
18						
19 20						
21						
22						
23 24						
25						
	Page 291					
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