

May 2, 2008

**VIA FACSIMILE – (503) 373-1043
AND MAIL**

Dexter Johnson
Legislative Counsel
State of Oregon
Legislative Counsel Committee
900 Court St. NE, S-101
Salem, Oregon 97301-4065

Re: Public License Agreement

I am writing to follow up on our April 29, 2008 conference call and the “Public License” your Committee has proffered to my clients Justia Inc. and Public.Resource.Org.

My clients respectfully cannot agree to the Public License. First, and most fundamentally, it would require them to acknowledge that portions of the Oregon Revised Statutes (ORS) are protected by copyright, and they respectfully but vigorously disagree that portions of the ORS are protected by copyright.

The Committee’s assertion of copyright is inconsistent both with Oregon law mandating broad distribution of the ORS (see ORS section 173.763(1)(a)(H)) and with copyright law. See, e.g., Feist Publications, Inc. v. Rural Telephone Service, 499 U.S. 340 (1991) [listing of names and numbers of telephone book white pages not copyrightable]; Matthew Bender & Company, Inc v. West Publishing Co., 158 F.3d 674 (2d Cir. 1998) [parallel cites, subsequent history not copyrightable]; Veeck v. Southern Building Code Congress Intl., 293 F.3d 791, 793 [as law, model code “enter the public domain and are not subject to the copyright holder’s exclusive prerogatives”]. We also believe that any prohibition on the electronic posting of the ORS would violate the First Amendment and the cases cited in my client Carl Malamud’s April 13 and 15 letters.

Accordingly, it is my clients’ intention to post the entirety of the Oregon Revised Statutes, including the material your Committee has asserted a copyright over, on the Internet by June 2, 2008. We regret that we have reached an impasse but the issue of public access is too important, and the state’s assertion of copyright so broad, that we cannot agree to the proffered Public License.

LEVY, RAM & OLSON LLP

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If you have any questions, please do not hesitate to give me a call.

Sincerely,

A handwritten signature in black ink, appearing to read 'Karl Olson', with a long horizontal flourish extending to the right.

Karl Olson

KO:amw

cc: Tim Stanley
Carl Malamud