

No. 18-1150

IN THE
Supreme Court of the United States

STATE OF GEORGIA, *et al.*,

Petitioners,

v.

PUBLIC.RESOURCE.ORG, INC.,

Respondent.

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Eleventh Circuit

**BRIEF OF AMICI CURIAE
NEXT-GENERATION LEGAL RESEARCH
PLATFORMS AND DATABASES AND DIGITAL
ACCESSIBILITY ADVOCATE
IN SUPPORT OF RESPONDENT**

Phillip R. Malone
Counsel of Record
JUELSGAARD INTELLECTUAL
PROPERTY AND
INNOVATION CLINIC
MILLS LEGAL CLINIC AT
STANFORD LAW SCHOOL
559 Nathan Abbott Way
Stanford, CA 94305
(650) 725-6369
pmalone@stanford.edu

Counsel for Amici Curiae

TABLE OF CONTENTS

INTEREST OF <i>AMICI CURIAE</i>	1
SUMMARY OF ARGUMENT	5
ARGUMENT	6
I. This Case Is Exceptionally Important Because Full Access to the Law Is Fundamental.....	6
A. Due Process and Democratic Principles Require Public Access to the Law.....	7
B. People Who Use Assistive Technologies in Particular Require Access to the Law.	9
II. Existing Legal Uncertainty Hampers Legal Innovation and Lessens Competition.....	11
A. Uncertainty Regarding Access to the Law Impairs <i>Amici's</i> Ability to Innovate.....	12
B. Lack of Uniformity Exposes Legal Innovators to Nationwide Suits.....	16
C. Without Uniformity, Legal Threats and Lawsuits Against Innovators Will Recur. ...	18
D. Legal Uncertainty Restrains Valuable Competition.	21
CONCLUSION	24

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Banks v. Manchester</i> , 128 U.S. 244 (1888)	8
<i>Bldg. Officials & Code Adm. v. Code Tech., Inc.</i> , 628 F.2d 730 (1st Cir. 1980)	9
<i>Buckley v. Valeo</i> , 424 U.S. 1 (1976)	7
<i>Code Revision Comm'n v. Public.Resource.Org</i> , <i>Inc.</i> , 906 F.3d 1229 (11th Cir. 2018)	23
<i>Commil USA, LLC v. Cisco Sys.</i> , 135 S. Ct. 1920 (2015)	7
<i>Edy Clover Prods., Inc. v. Nat'l Broadcasting</i> <i>Co.</i> , 572 F.2d 119 (3d Cir. 1978)	17
<i>Evergreen Media Holdings, LLC v. Warren</i> , 105 F. Supp. 3d 192 (D. Conn. 2015)	17
<i>FCC v. Fox Television Stations, Inc.</i> , 567 U.S. 239 (2012)	6
<i>Foreign Imported Prods. & Publ., Inc. v. Grupo</i> <i>Indus. Hotelero, S.A.</i> , 2008 U.S. Dist. LEXIS 108705, at *1 (S.D. Fla. Oct. 24, 2008)	17
<i>Papachristou v. City of Jacksonville</i> , 405 U.S. 156 (1972)	7
<i>Penguin Grp. (USA) Inc. v. American Buddha</i> , 946 N.E.2d 159 (N.Y. 2011)	17

<i>Veeck v. S. Bldg. Code Cong. Int'l</i> , 293 F.3d 791 (5th Cir. 2002)	8
-----------------------------------------------------------------------------------	---

Statutes

17 U.S.C. § 121 (2018)	10
28 U.S.C. § 1404 (2018)	18

Treatises

17 James Wm. Moore et al., <i>Moore's Federal Practice – Civil</i> (3d ed. 2019)	17
-------------------------------------------------------------------------------------------	----

Other Authorities

Brief of Next-Generation Legal Research Platforms as Amici Curiae In Support of Defendant/Appellant, <i>Code Revision Comm'n v.</i> <i>Public.Resource.Org, Inc.</i> , 906 F.3d 1229 (11th Cir. 2018) (No. 17-11589-HH).....	15
Jill Schachner Chanen, <i>Exclusive: Inside the New Westlaw, Lexis & Bloomberg Platforms</i> , ABA Journal (Jan. 25, 2010, 3:00 AM), http://www.abajournal.com/news/article/exclusive_inside_the_new_westlaw_lexis_bloomberg_platforms	22
Judge Kevin Burke, <i>An Exciting Opportunity for Judges to Get Good, Solid Research</i> , American Judges Association (May 16, 2017), http://blog.amjudges.org/?p=5968	13

Leslie Street & David Hansen, <i>Official Publications of State Laws: Copyright Status and Terms of Use (Compiled with Status Current to August 2018)</i> , Mercer University Research, Scholarship, and Archives (Dec. 17, 2018, 2:36 PM), https://libraries.mercer.edu/ursa/handle/10898/19937	20
Leslie Street & David R Hansen, <i>Who Owns the Law? Why We Must Restore Public Ownership of Legal Publishing</i> , 26 J. Intell. Prop. L. 205 (2019)	14, 21
Letter from Bradley R. Frazer, Hawley Troxell Ennis & Hawley LLP, to Carl Malamud, President & Founder, Public.Resource.Org (Aug. 14, 2013), https://law.resource.org/pub/us/code/id/id.gov.20130814.pdf	19
Letter from Carl Malamud, President & Founder, Public.Resource.Org, to Hon. Scott Bedke, Speaker of the House, Idaho State Legislature (May 30, 2013), https://law.resource.org/pub/us/code/id/id.gov.20130530.pdf	19
Letter from Larry A. Schemmel, Special Assistant Attorney General, State of Mississippi, to Carl Malamud, President & Founder, Public.Resource.Org (Oct. 7, 2013), https://law.resource.org/pub/us/code/ms/ms.gov.20131007.pdf	20

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.