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**DOMINIC SIMS, CBO**  
Washington, DC

January 7, 2016

**VIA USPS CERTIFIED MAIL AND E-MAIL:**

Mr. Russ Chaney  
Chief Executive Officer  
IAPMO  
4755 E. Philadelphia St.  
Ontario, CA 91761  
[russ.chaney@iapmo.org](mailto:russ.chaney@iapmo.org)

Dear Russ:

As you know, it is ICC's position that IAPMO has been issuing evaluation reports and acceptance criteria that copied substantial portions of ICC-ES' copyrighted material. Our respective attorneys have discussed the matter on numerous occasions over the past several years, and I personally raised the issue with you in writing in February of last year. Nevertheless, the copying has not stopped; rather, its frequency increased. We continue to be concerned with IAPMO's distribution and claim of ownership of documents that contain ICC-ES material.

ICC has therefore reluctantly concluded that our only remaining course of action is to file a lawsuit in order to protect our members' intellectual property – an asset that is essential to our mission and business. Accordingly, our lawyers have prepared a complaint to be filed in Federal Court. I recognize that you may disagree with our perspective on these matters, but let me state that we are confident that we have a strong position, both factually and legally.

Before filing the complaint, ICC decided to make an earnest, last ditch effort to resolve this situation without litigation, and on October 28, 2015 we initiated a final round of dialogue with IAPMO. We identified eleven current IAPMO documents (nine evaluation reports and two acceptance criteria) that we believe contain substantial amounts of ES material. IAPMO's initial response to this overture gave us hope that a negotiated solution was possible. ICC therefore agreed to defer filing suit while the lawyers tried to work out a solution.

In the several weeks since, there have been numerous additional phone conferences (I count at least 16), as well as extensive email correspondence, involving our respective attorneys. In addition, you and I spoke directly about the matter by phone on November 14.

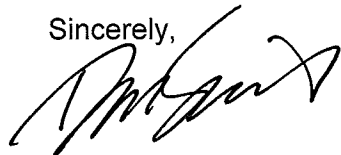
We have requested that IAPMO withdraw from circulation the specified offending documents and agree on a mechanism to ensure that there will be no more copying of ES materials in the future. To demonstrate its commitment to an amicable resolution of the matter, ICC indicated that it would withdraw its substantial and justifiable demand for monetary compensation related to IAPMO's past use of ES material. In addition, ICC indicated a willingness to give IAPMO a full release from all claims related to the offending IAPMO documents, if IAPMO takes appropriate action regarding them.

Regrettably, however, IAPMO's response has been unsatisfactory. While it has rewritten the at issue IAPMO evaluation reports (but not the documents infringing ICC's acceptance criteria), at least five of its rewrites continue to infringe ICC-ES copyrights. For example, the revised versions of several evaluation reports continue to make substantial use of ICC-ES material, and attempt to cover up the matter by placing quotations around the ICC-ES language in your reports. This is a wholly inadequate solution to the problem. Given that this comes after extensive discussions between our representatives, we are left to conclude that IAPMO does not intend to take all the steps necessary to address ICC's legal concerns and thereby avoid litigation.

I want to emphasize that ICC views this as more than just a legal dispute: as not-for-profits and members of the standards developing community, both of our organizations are called to a higher standard because of the trust placed in the work that we do. The public's confidence in all standards developing organizations rests on our collective commitment to upholding the highest standards of integrity.

That is in part why ICC has not already filed suit. We have negotiated in good faith, and we have offered significant concessions in order to avoid having to resort to the courts for relief. It does not appear to us, however, that IAPMO is similarly committed to resolving the matter through negotiation. Therefore, absent an immediate and demonstrable change of heart by IAPMO, we see no option but to proceed with filing a lawsuit to address the matters discussed above, as well as other acts of infringement we have discovered, and to enforce our rights.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dominic Sims', written over a white background.

Dominic Sims  
Chief Executive Officer

cc: Mr. Bruce Pfeiffer  
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Senior Plumbing Inspector  
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