

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

UNITED STATES TELECOM
ASSOCIATION,

Petitioner,

v.

FEDERAL COMMUNICATIONS
COMMISSION and UNITED STATES
OF AMERICA,

Respondents.

Case No. 15-1063 (and
consolidated cases)

**MOTION OF UNION SQUARE VENTURES, LLC
FOR LEAVE TO INTERVENE IN SUPPORT OF RESPONDENTS**

Union Square Ventures, LLC (“Union Square Ventures”) hereby moves to intervene in these consolidated appeals¹ in support of Respondents Federal Communications Commission (the “FCC”) and the United States of America pursuant to Federal Rules of Appellate Procedure 15(b). In the alternative, Union Square Ventures respectfully requests that the Court treat this motion as a notice of

¹ Pursuant to D.C. Circuit Rule 15(b), a motion to intervene in a case concerning “direct review of an agency action will be deemed a motion to intervene in all cases before this court involving the same agency action or order, including later filed cases.” Accordingly, this motion to intervene shall serve as a motion to intervene in each of the consolidated cases. *See* Docket Nos. 15-1078, 15-1086, 15-1089, 15-1090, 15-1091, 15-1092, 15-1095, 15-1099, 15-1117, and 15-1128.

intention to intervene pursuant to 47 U.S.C. § 402(e).²

In support of its motion, Union Square Ventures states as follows:

1. Union Square Ventures is a venture capital investor in edge provider services which have flourished as a result of the Internet's open framework. Since 2004, Union Square Ventures has invested in over 70 edge provider services. *See* <http://usv.com/portfolio>.

2. Petitioners in these consolidated cases—broadband Internet access carriers and their trade associations—challenge the FCC's final order titled *Protecting and Promoting the Open Internet* (the "Order"), 80 Fed. Reg. 19,737 (Apr. 13, 2015). In that Order, the FCC established rules to protect and promote the open Internet by, among other things, prohibiting carriers from blocking, throttling, and charging "prioritization" fees for Internet traffic passing through their networks between consumers and "edge providers"—providers of Internet services and applications at the edge of the Internet's networks. *See id.* at 19,738.

3. Substantially all of Union Square Ventures' portfolio companies, and therefore Union Square Ventures' investment business, depend on edge providers' ability to reach their users without interference by broadband Internet access carriers. Union Square Ventures would be adversely affected if the Order were

² In accordance with that statute, Vimeo has attached a verified statement attesting to its interest in these appeals.

vacated or modified in a way that provided less protection for Internet traffic traveling through carrier networks.

4. Union Square Ventures actively participated in the FCC rulemaking process below by advocating for the adopted rules.³

5. Based upon the foregoing facts, Union Square Ventures has a material interest in these appeals and is therefore entitled to intervene as of right. *See* 47 U.S.C. § 402(e) (“Any person who would be aggrieved or whose interest would be adversely affected by a reversal or modification of the order . . . shall be considered an interested party.”); 28 U.S.C. § 2348 (any entity “whose interests are affected by [an] order of [a federal] agency, may intervene in any proceeding to review the order”); *Yakima Valley Cablevisions, Inc. v. FCC*, 794 F.2d 737, 744-45 (D.C. Cir. 1986) (granting intervention to parties “directly affected” by FCC order); Fed. R. App. P. 15(d).

³ *See, e.g., In the Matter of Promoting the Open Internet*, GN Dkt. No. 14-28, Ltr. from Brad Burnham, Union Square Ventures, LLC to Marlene H. Dortch, Sec., FCC (June 26, 2014), <http://apps.fcc.gov/ecfs/comment/view?id=6017856106>; *In the Matter of Promoting the Open Internet*, GN Dkt. No. 14-28, Ltr. from Nick Grossman, Union Square Ventures, LLC to Marlene H. Dortch, Sec., FCC (May 9, 2014), <http://apps.fcc.gov/ecfs/comment/view?id=6017634129>; *In the Matter of Promoting the Open Internet*, GN Dkt. No. 14-28, Ltr. from Brad Burnham, Union Square Ventures, LLC to Marlene H. Dortch, Sec., FCC (May 7, 2014), <http://apps.fcc.gov/ecfs/comment/view?id=6017632316>; *In the Matter of Promoting the Open Internet*, GN Dkt. No. 14-28, Ltr. from Brad Burnham, Union Square Ventures, LLC to Marlene H. Dortch, Sec., FCC (May 6, 2014), <http://apps.fcc.gov/ecfs/comment/view?id=6017628123>.

6. Union Square Ventures' motion is timely as it is filed within 30 days after the most recent timely-filed petition in these consolidated appeals.⁴ *See* 47 U.S.C. § 402(e); D.C. Circuit R. 15(b).

Union Square Ventures respectfully requests that this Court grant its motion for leave to intervene in these appeals in support of Respondents Federal Communications Commission and the United States.

⁴ The most recently-filed petition (No. 15-1128) was filed on May 7, 2015. This motion is also filed within 30 days of the earliest timely petition (No. 15-1086), which was filed on April 13, 2015, the date the Order was published in the Federal Register. The petitions filed before the Order's publication (Nos. 15-1063 and 15-1078) are incurably premature. *See Consumer Elec. Ass'n v. FCC*, 347 F.3d 291, 296-97 (D.C. Cir. 2003).

Dated: May 12, 2015

Respectfully submitted,

/s/ Seth D. Greenstein

Seth D. Greenstein

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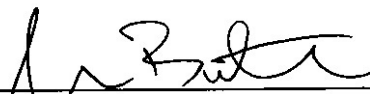
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**VERIFIED STATEMENT OF INTEREST BY UNION SQUARE
VENTURES, LLC**

I, John Buttrick, hereby declare and state the following:

1. I am a Managing Member of Union Square Ventures, LLC.
2. I hereby certified under penalty of perjury that the factual statements in numbered paragraphs 1-6 of Union Square Ventures, LLC's Motion to Intervene in Support of Respondents are true and correct to the best of my knowledge.



John Buttrick

Dated: May 12, 2015
New York, NY

CERTIFICATE AS TO PARTIES

Pursuant to D.C. Circuit Rules 27(a)(4) and 28(a)(1)(A), Union Square Ventures, LLC certifies that the parties, intervenors, and amici appearing before this Court are listed in Petitioner United States Telecom's Certificate as to Parties, Ruling, and Related Cases dated April 23, 2015 and as set forth below:

The Petitioner in Case No. 15-1117 is the Wireless Internet Service Providers Association; the Respondents are the FCC and the United States of America.

The Petitioner in Case No. 15-1128 is Daniel Berninger; the Respondents are the FCC and the United States of America.

Pursuant to the instant motion and motions filed concurrently herewith, the following entities seek intervenor status: Etsy Inc., Kickstarter Inc., Meetup, Inc., Tumblr, Inc., Union Square Ventures, LLC, and Vimeo, LLC.

Dated: May 12, 2015

Respectfully submitted,

/s/ Seth D. Greenstein

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Attorneys for Union Square Ventures, LLC

CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and D.C. Circuit Rule 26.1, Union Square Ventures, LLC states that it (a) is a for-profit limited liability company organized under the laws of the State of Delaware with its principal place of business in New York, New York; (b) has no parent company and no publicly-held corporation owns more than 10% of its stock; and (c) is a venture capital investor in applications-layer, “edge provider” Internet services.

Dated: May 12, 2015

Respectfully submitted,

/s/ Seth D. Greenstein

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Attorneys for Union Square Ventures, LLC

CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2015, I caused this Motion of Union Square Ventures, LLC to Intervene in Support of Respondents to be served by filing with the CM/ECF system of the United States Court of Appeal for the D.C. Circuit.

/s/ Seth D. Greenstein

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