

**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 FOR LEAVE TO INTERVENE**

Credo Mobile, Inc. (“Credo Mobile”) moves to intervene as of right in these consolidated cases<sup>1</sup> in support of Respondents Federal Communications Commission (the “FCC”) and the United States of America pursuant to 47 U.S.C. § 402(e), 28 U.S.C. § 2348, and Rule 15(d) of the Federal Rules of Appellate Procedure. As set forth below, Credo Mobile is entitled to intervene as of right because it would be directly affected by any reversal or modification of the FCC order under review.

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<sup>1</sup> 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, Credo Mobile’s motion to intervene shall serve as a motion to intervene in the consolidated cases.

The FCC's Petitioners in these consolidated cases—broadband Internet access carriers and their trade associations—challenge the FCC's final order. *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. *See id.* at 19,738.

Credo Mobile has a direct interest in these proceedings. Credo Mobile is an intermediary company that provides mobile phone and data services to its customers, offering access to the Internet. Credo Mobile attracts customers, in part, based its public practice of donating 1% of its customers' monthly charges to various progressive nonprofit groups working in five issue areas: civil rights, the environment, peace and international freedom, economic and social justice, and voting rights & civic participation. The donations are made at no extra cost to Credo Mobile's customers, but through this process, Credo Mobile has raised and donated over \$78 million for groups like Electronic Frontier Foundation, Planned Parenthood, and Free Press. Credo Mobile also facilitates direct political speech through its activism arm, Credo Action, an online and telephone-based activism network that enables more than 3.5 million concerned citizens to speak out about the causes they care about.

Over the years, Credo Mobile has helped its customers and activists engage on a number of important political issues, including Net Neutrality. Recognizing that democracy and free speech depend upon an open Internet, Credo Mobile has been a leader in the fight to defend Net Neutrality. On behalf of itself, its customers, and its activists, Credo Mobile has worked tirelessly in support of FCC reclassification of broadband under Title II to protect citizens. Credo Mobile has met ex parte at the FCC on this issue and was critical in ensuing a record number of public comments in support of a true open internet were submitted in the Net Neutrality docket. Should the Order be modified or vacated, the essence of Credo Mobile's work would be threatened. Allowing businesses to be the gatekeepers of content without any regulation or oversight would destroy our ability to freely and widely share political and charitable speech.

As a mobile service provider, Credo Mobile also wants to ensure that consumers are afforded equal access to the Internet in a manner that does not unduly impair business interests. But unlike the Petitioner trade associations and the businesses that support them, Credo Mobile believes that the Order is the best way to secure those interests. Ensuring that Credo Mobile customers have open access to the Internet is simply good business. Indeed, its business would suffer without the Order because—as the FCC rightly concluded and this Court previously recognized—permitting broadband providers to engage in blocking or

discrimination would lead to less innovation among applications-developers, which would lead to less demand for broadband generally. Therefore, if other, larger, broadband Internet access providers engage in practices that harm the “virtuous cycle” of innovation, demand for Credo Mobile’s own broadband Internet access services will decrease. Therefore, Credo Mobile would suffer a direct business harm in addition to limiting its ability to share political and charitable speech. Therefore, Credo Mobile and its customers and activists would be adversely affected if the Order were vacated or modified in a way that provided less protection for Internet traffic traveling through carrier networks.

Credo Mobile’s motion is timely as it is filed within 30 days after the most recent timely-filed petition in these consolidated appeals.<sup>2</sup> *See* 47 U.S.C. § 402(e); D.C. Circuit R. 15(b).

Credo Mobile respectfully requests that this Court grant its motion for leave

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<sup>2</sup> The last-filed petition (No. 15-1128) is dated May 7, 2015.

to intervene in these appeals in support of Respondents Federal Communications Commission and the United States of America.

Respectfully submitted,

/s/Marvin Ammori

1718 M St. NW #1990

Washington, DC 20036

marvin@ammorigroup.com

(202) 505-3680

ATTORNEY FOR CREDO  
MOBILE, INC.

May 13, 2015

**IN THE UNITED STATES COURT OF APPEALS  
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**CERTIFICATE AS TO THE PARTIES**

Pursuant to D.C. Circuit Rule 28(a)(1)(A), Credo Mobile, Inc. (“Credo Mobile”) hereby certifies the following:

In Case No. 15-1063, the Petitioner is United States Telecom Association and the Respondents are the Federal Communications Commission (“FCC”) and the United States of America. Movant Credo Mobile seeks leave to appear in this matter as an Intervenor in support of Respondents FCC and United States of America. No amici have appeared before this Court.

In Case No. 15-1078, the Petitioner is Alamo Broadband Inc. The Respondents are the FCC and the United States of America.

In Case No. 15-1086, the Petitioner is the United States Telecom Association. The Respondents are the FCC and the United States of America.

In Case No. 15-1090, the Petitioner is the National Cable & Telecommunications Association. The Respondents are the FCC and the United States of America.

In Case No. 15-1091, the Petitioner is CTIA -The Wireless Association. The Respondents are the FCC and the United States of America.

In Case No. 15-1092, the Petitioner is AT&T Inc. The Respondents are the FCC and the United States of America.

In Case No. 15-1095, the Petitioner is the American Cable Association. The Respondents are the FCC and the United States of America.

In Case No. 15-1099, the Petitioner is CenturyLink. The Respondents are the FCC and the United States of America.

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

In Case No. 15-1128, the Petitioner is Daniel Berninger. The Respondents

are the FCC and the United States of America.

Respectfully submitted,

/s/ Marvin Ammori

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Marvin Ammori  
AMMORI GROUP  
1718 M St. NW #1990  
Washington, DC 20036  
marvin@ammorigroup.com  
(202) 505-3680

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May 13, 2015

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**CORPORATE DISCLOSURE STATEMENT**

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and D.C. Circuit Rules 26.1, Credo Mobile, Inc. (“Credo Mobile”) submits the following corporate disclosure statement.

Working Assets, Inc., is the parent company of Credo Mobile, Inc. No

publicly-held corporation owns stock or any other interest in either Credo Mobile, Inc. or Working Assets, Inc.

Respectfully submitted,

/s/ Marvin Ammori

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Marvin Ammori  
AMMORI GROUP  
1718 M St. NW #1990  
Washington, DC 20036  
marvin@ammorigroup.com  
(202) 505-3680

ATTORNEY FOR CREDO MOBILE, INC.

May 13, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that, on behalf of Credo Mobile, Inc., on May 13, 2015, I electronically filed the foregoing Motion for Leave to Intervene with the Clerk of the Court for the United States Court of Appeals for the D.C. Circuit by using the CM/ECF system. I certify further that I have directed that copies of the foregoing Motion for Leave to Intervene be served on all counsel by electronic service via CM/ECF.

/s/ Andrew Jay Schwartzman  
Andrew Jay Schwartzman