

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

UNITED STATES TELECOM
ASSOCIATION, *et al.*,

Petitioners,

v.

FEDERAL COMMUNICATIONS
COMMISSION

and

UNITED STATES OF AMERICA,

Respondents.

Case No. 15-1063 and
consolidated cases

DANIEL BERNINGER’S STATEMENT OF ISSUES TO BE RAISED

Petitioner Daniel Berninger submits the following non-binding statement of issues to be raised in the above-captioned case.

In the order under review, the Federal Communications Commission (“FCC”) seeks to regulate the Internet. The FCC claims that the Public Switched Telephone Network and the Internet are one and the same and asserts authority under Title II of the Communications Act of 1934 over computer and communications networks and services that rely upon public Internet Protocol addresses. The Commission uses this newly invented authority to regulate the Internet ecosystem, including broadband Internet access services and Internet

exchange arrangements, and to prohibit broadband providers from prioritizing traffic.

Daniel Berninger intends to raise the following issues on appeal:

1. Whether the FCC's decision to arrogate unto itself boundless authority to regulate the Internet under Title II violates the terms of the Communications Act of 1934, as amended, is arbitrary and capricious, or is otherwise contrary to law.

2. Whether the FCC's ban on paid prioritization arrangements exceeds the FCC's authority under Section 706 of the Telecommunications Act and Title II of the Communications Act, is arbitrary and capricious, or is otherwise contrary to law.

Respectfully submitted,

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June 8, 2015

CERTIFICATE OF SERVICE

I hereby certify that, on June 8, 2015, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit using the appellate CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

s/ Bennett L. Ross
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