

United States Court of Appeals  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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Argued February 1, 2019

Decided October 1, 2019

No. 18-1051

MOZILLA CORPORATION,  
PETITIONER

v.

FEDERAL COMMUNICATIONS COMMISSION AND UNITED  
STATES OF AMERICA,  
RESPONDENTS

CITY AND COUNTY OF SAN FRANCISCO, ET AL.,  
INTERVENORS

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Consolidated with 18-1052, 18-1053, 18-1054, 18-1055,  
18-1056, 18-1061, 18-1062, 18-1064, 18-1065, 18-1066,  
18-1067, 18-1068, 18-1088, 18-1089, 18-1105

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On Petitions for Review of an Order of  
the Federal Communications Commission

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*Pantelis Michalopoulos and Kevin Kendrick Russell* argued the causes for non-government petitioners. With them on the joint briefs were *Cynthia L. Taub, Markham C. Erickson, Michael A. Cheah, Brian M. Willen, Donald J. Evans, Sarah J. Morris, Matthew F. Wood, Colleen Boothby, James N. Horwood, Tillman L. Lay, Jeffrey M. Bayne,*

*Katherine J. O'Konski, Andrew J. Schwartzman, Harold J. Feld, and Lisa A. Hayes. Keenan P. Adamchak and Kevin S. Bankston, entered appearances.*

*Stephanie Weiner* argued the cause for intervenors Internet Association et al. et al. in support of petitioners. With her on the briefs were *Christopher J. Wright, Scott Blake Harris, E. Austin Bonner, Matt Schruers, John A. Howes, Jr., and Anthony R. Segall. Maria K. Myers* entered an appearance.

*Danielle L. Goldstein and Steven C. Wu, Deputy Solicitor General, Office of the Attorney General for the State of New York, argued the causes for government petitioners. With them on the briefs were Barbara D. Underwood, Attorney General at the time the brief was filed, Office of the Attorney General for the State of New York, Arocles Aguilar, Helen M. Mickiewicz, Lisa-Marie G. Clark, Kimberly Lippi, Ester Murdukhayeva, Assistant Solicitor General, Office of the Attorney General for the State of New York, Greta Hansen, Xavier Becerra, Attorney General, Office of the Attorney General for the State of California, Sarah E. Kurtz, Deputy Attorney General, Nicklas A. Akers, Senior Assistant Attorney General, George Jepsen, Attorney General, Office of the Attorney General for the State of Connecticut, Jonathan J. Blake, Assistant Attorney General, Jeffrey T. Pearlman, Phillip R. Malone, Matthew P. Denn, Attorney General, Office of the Attorney General for the State of Delaware, Christian D. Wright, Director, Consumer Protection, Thomas J. Miller, Attorney General, Office of the Attorney General for the State of Iowa, Benjamin E. Bellus, Assistant Attorney General, Russell A. Suzuki, Attorney General at the time the brief was filed, Office of the Attorney General for the State of Hawai'i, Clyde J. Wadsworth, Solicitor General, Lisa Madigan, Attorney General, Office of the Attorney General for the State of Illinois, David Franklin, Solicitor General, Andrew G.*

*Beshear*, Attorney General, Office of the Attorney General for the Commonwealth of Kentucky, *Maura Healey*, Attorney General, Office of the Attorney General for the Commonwealth of Massachusetts, *Jared Rinehimer*, Assistant Attorney General, *Janet T. Mills*, Attorney General at the time the brief was filed, Office of the Attorney General for the State of Maine, *Brendan O'Neil*, Assistant Attorney General, *Brian E. Frosh*, Attorney General, Office of the Attorney General for the State of Maryland, *Richard L. Trumka, Jr.*, Assistant Attorney General, *Lori Swanson*, Attorney General, Office of the Attorney General for the State of Minnesota, *Joseph C. Meyer*, Assistant Attorney General, *Hector Balderas*, Attorney General, Office of the Attorney General for the State of New Mexico, *Tania Maestas*, Deputy Attorney General, *James M. Hood*, Attorney General, Office of the Attorney General for the State of Mississippi, *Crystal Utley Secoy*, Special Assistant Attorney, *Gurbir S. Grewal*, Attorney General, Office of the Attorney General for the State of New Jersey, *Jeremy M. Feigenbaum*, Assistant Attorney General, *Joshua H. Stein*, Attorney General, Office of the Attorney General for the State of North Carolina, *Kevin Anderson*, Senior Deputy Attorney General, *Peter Kilmartin*, Attorney General, Office of the Attorney General for the State of Rhode Island, *Michael W. Field*, Assistant Attorney General, *Ellen F. Rosenblum*, Attorney General, Office of the Attorney General for the State of Oregon, *Andrew Shull*, Senior Assistant Attorney General, *Josh Shapiro*, Attorney General, Office of the Attorney General for the Commonwealth of Pennsylvania, *Michael J. Fischer*, Chief Deputy Attorney General, *Thomas J. Donovan, Jr.*, Attorney General, Office of the Attorney General for the State of Vermont, *Christopher J. Curtis*, Chief, Public Protection Division, *Karl A. Racine*, Attorney General, Office of the Attorney General for the District of Columbia, *Loren L. AliKhan*, Solicitor General, *Mark R. Herring*, Attorney General, Office of the Attorney General for the

Commonwealth of Virginia, *Samuel T. Towell*, Deputy Attorney General, *Robert W. Ferguson*, Attorney General, Office of the Attorney General for the State of Washington, *Tiffany Lee*, Assistant Attorney General, *Dennis J. Herrera*, and *William K. Sanders*. *Bryan C. Yee*, Deputy Attorney General, Office of the Attorney General for the State of Hawai'i, *Sarah E. Kurtz*, Deputy Attorney General, Office of the Attorney General for the State of California, *Michael C. Wertheimer*, Assistant Attorney General, and *John S. Story*, Attorney, Office of the Attorney General for the State of Connecticut, *Theresa C. Mueller*, *Jennifer M. Murphy*, and *James B. Ramsey*, entered appearances.

*Christopher Jon Sprigman* was on the brief for *amici curiae* Members of Congress in support of petitioners.

*Mitchell Stoltz* and *Corynne McSherry* were on the brief for *amicus curiae* Electronic Frontier Foundation in support of petitioners.

*Christopher T. Bavitz* was on the brief for *amicus curiae* Engine Advocacy in support of petitioners.

*MacKenzie Fillow*, *Edward N. Siskel*, *Michael P. May*, and *Karen L. Moynahan* were on the brief for *amici curiae* The City of New York and 27 other local governments, mayors and municipal organizations in support of petitioners.

*Allen S. Hammond, IV* was on the brief for *amici curiae* Professors of Administrative, Communications, Energy, Antitrust, and Contract Law and Policy in support of petitioners.

*Jessica L. Ellsworth* and *Matthew Higgins* were on the brief for *amici curiae* The American Council on Education and

19 other education and library associations in support of petitioners.

*Henry Goldberg* and *Devendra T. Kumar* were on the brief for *amicus curiae* eBay Inc. in support of petitioners.

*Adrienne E. Fowler* was on the brief for *amicus curiae* Twilio Inc. in support of petitioner.

*Andrew Jay Schwartzman* and *James T. Graves* were on the brief for *amicus curiae* Consumer Reports in support of petitioners.

*Thomas H. Vidal* was on the brief for *amici curiae* Professors Scott Jordan and Jon Peha in support of petitioners.

*Michael J. Burstein* was on the brief for *amici curiae* Professors of Communications Law in support of petitioners.

*Paul Goodman* and *Yosef Getachew* were on the brief for *amici curiae* Common Cause, et al. in support of petitioners and vacation of the order.

*William Michael Cunningham, pro se*, was on the brief for *amicus curiae* William Michael Cunningham in support of the public interest.

*Thomas M. Johnson Jr.*, General Counsel, Federal Communications Commission, argued the cause for respondents. With him on the brief were *Kristen C. Limarzi* and *Nickolai G. Levin*, Attorneys, U.S. Department of Justice, *David M. Gossett*, Deputy General Counsel, Federal Communications Commission, *Jacob M. Lewis*, Associate General Counsel, and *James M. Carr* and *Scott M. Noveck*, Counsel. *Robert J. Wiggers*, Attorney, U.S. Department of

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