

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION**

STATE OF ARIZONA;  
STATE OF TEXAS;  
STATE OF OKLAHOMA; and  
STATE OF NEVADA,

Plaintiffs,

v.

NATIONAL TELECOMMUNICATIONS AND  
INFORMATION ADMINISTRATION (NTIA);  
UNITED STATES OF AMERICA; UNITED  
STATES DEPARTMENT OF COMMERCE;  
PENNY PRITZKER, in her Official Capacity as  
Secretary of Commerce; LAWRENCE E.  
STRICKLING, in his Official Capacity as  
Assistant Secretary for Communications and  
Information and Administrator of NTIA,

Defendants.

Civil Action No. 3:16-cv-00274

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**MOTION OF INTERNET ASSOCIATION, INTERNET INFRASTRUCTURE  
COALITION, INTERNET SOCIETY, COMPUTER & COMMUNICATIONS  
INDUSTRY ASSOCIATION, NETCHOICE, MOZILLA, PACKET CLEARING  
HOUSE, ACT|THE APP ASSOCIATION, AMERICAN REGISTRY FOR  
INTERNET NUMBERS, INFORMATION TECHNOLOGY INDUSTRY  
COUNCIL, ACCESS NOW, ANDREW SULLIVAN, TED HARDIE, JARI ARKKO,  
AND ALISSA COOPER FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE* IN  
OPPOSITION TO APPLICATION FOR TEMPORARY RESTRAINING ORDER  
AND MOTION FOR PRELIMINARY INJUNCTION**

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The proposed *amici curiae* listed in the caption of this paper move for leave to file a brief as *amici curiae* in opposition to Plaintiff State of Arizona’s application for temporary restraining order and preliminary injunction. **Exhibit A** is a proposed copy of the brief, including relevant disclosures regarding the identity and ownership of *amici*. *Amici* have sought consent from the parties for this motion and the filing of an *amicus* brief. Defendants and Plaintiff the State of Arizona (the movant) have indicated they do not oppose this motion.

## **ARGUMENT**

### **I. THE COURT HAS DISCRETION TO ACCEPT BRIEFS OF *AMICI CURIAE*.**

Federal district courts possess the inherent authority to accept briefs of *amici curiae*. *In re Bayshore Ford Truck Sales, Inc.*, 471 F.3d 1233, 1249 n.34 (11th Cir. 2006); *see also Jin v. Ministry of State Security*, 557 F. Supp. 2d 131, 136 (D.D.C. 2008). “No statute, rule, or controlling case defines a federal district court’s power to grant or deny leave to file an amicus brief, . . . and in the absence of controlling authority, district courts commonly refer to [Federal Rule of Appellate Procedure] 29 for guidance.” *United States ex rel. Gudur v. Deloitte Consulting Llp*, 512 F. Supp. 2d 920, 927 (S.D. Tex. 2007). “Factors relevant to the determination of whether amicus briefing should be allowed include whether the proffered information is ‘timely and useful’ or otherwise necessary to the administration of justice.” *Id.* The role of *amici* is to assist the court “in cases of general public interest by making suggestions to the court, by providing supplementary assistance to existing counsel, and by insuring a complete and plenary

presentation of difficult issues so that the court may reach a proper decision.” *Newark Branch, N.A.A. C.P. v. Town of Harrison*, N.J., 940 F.2d 792, 808 (3rd Cir. 1991).

**II. THE PROPOSED BRIEF PROVIDES IMPORTANT CONTEXT REGARDING THE IANA TRANSITION PLAN NOT ADDRESSED BY THE PARTIES.**

This case challenges the transition of the IANA functions to private, non-governmental control. The proposed *amici* are organizations and representatives of organizations representing a wide variety of stakeholders in today’s global Internet. They also include organizations of technical experts who have helped build, maintain, and safeguard the Internet. They also include public-minded organizations committed to a free, open, and global Internet.

The proposed *amici* uniformly favor the transition to private, non-governmental operation of the root zone file. Many of the proposed *amici* participated in the multi-year process that led to the transition, including by contributing to the transition proposal and by providing testimony to both houses of the United States Congress. The proposed *amici* have reviewed the claims of Plaintiffs in this case and believe they reflect fundamental inaccuracies regarding how the relevant Internet technologies work and the role that IANA functions have played. The proposed *amici* believe they can assist the Court as they have assisted Congress, providing relevant context regarding the transition, its real effects, and its contribution to an open Internet. The proposed *amici* believe that their brief will not unnecessarily duplicate the arguments of the parties. Accordingly, these proposed *amici* request leave to file the attached brief.

Dated: September 30, 2016

Respectfully submitted,

/s/ Andrew P. Bridges

Andrew P. Bridges, Calif. Bar No. 122761

*Attorney-in-Charge*

Email: abridges@fenwick.com

Tyler G. Newby, CSB No. 205790\*

Email: tnewby@fenwick.com

Todd R. Gregorian, CSB No. 236096\*

Email: tgregorian@fenwick.com

Matthew B. Becker, CSB No. 291865\*

Email: mbecker@fenwick.com

FENWICK & WEST LLP

555 California Street, 12th Floor

San Francisco, CA 94104

Telephone: 415.875.2300

Facsimile: 415.281.1350

Armen N. Nercessian, CSB No. 284906\*

Email: anercessian@fenwick.com

FENWICK & WEST LLP

801 California Street

Mountain View, CA 94041

Telephone: 650.988.8500

Facsimile: 650.938.5200

\*Not admitted in this jurisdiction

Attorneys for *Amici Curiae*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule 5.3 on September 30, 2016.

/s/ Andrew P. Bridges  
ANDREW P. BRIDGES