

February 23, 2015

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Ex Parte Presentation

Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Misuse of Internet Protocol (IP) Captioned Telephone Service, Petition for Declaratory Ruling of Sorenson Communications, Inc. and CaptionCall, LLC to Ensure Competition in Internet Protocol Captioned Telephone Service, CG Docket Nos. 03-123, 13-24 (“Sorenson Petition”); Internet-Based TRS Certification Application of CaptionCall, LLC; Telecommunications Relay Service and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123 (“CaptionCall Application”)

Dear Ms. Dortch:

On February 19, 2015, representatives of Ultratec, Inc. (“Ultratec”) met with Greg Hlibok, Robert Aldrich, Eliot Greenwald, Darryl Cooper, and Caitlin Vogus of the Consumer & Governmental Affairs Bureau (“CGB”) of the Federal Communications Commission (“Commission”). Participating in the meeting on behalf of Ultratec were Robert Engelke, Chief Executive Officer; Kevin Colwell, Vice President; Christopher Engelke, Director of Linguistic Research and Interaction Design; Timothy Engelke, General Counsel; Jayne Turner, Vice President of CapTel, Inc.; Kristin Graham Noel of Quarles & Brady LLP, outside patent litigation counsel; and the undersigned.

As set forth below, Ultratec and the CGB staff discussed the petition for declaratory ruling filed by Sorenson Communications, Inc. (“Sorenson”) in the above-referenced docket and the application filed by CaptionCall, LLC (“CaptionCall”) seeking certification to provide

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Internet Protocol captioned telephone service (“IP CTS”), both of which proceedings are cited above. This filing is made in accordance with Section 1.1206(b)(1) of the Commission’s rules.¹

Sorenson Petition for Declaratory Ruling

During the meeting, the parties discussed the information and arguments set forth in Ultratec’s December 29, 2014 filing in the Sorenson Petition proceeding.² Specifically, Ultratec discussed the development of its captioned telephone service and IP CTS technologies and the Commission’s 2006 Declaratory Ruling³ determining that IP CTS is reimbursable from the Telecommunications Relay Service (“TRS”) Fund.⁴ Ultratec also discussed the pending patent litigation between, on the one hand, Ultratec and its affiliate CapTel, Inc. (“CapTel”) and, on the other hand, Sorenson and its affiliate CaptionCall, as well as the limited injunction requested in the litigation by Ultratec and CapTel.⁵

Further, Ultratec reasserted that IP CTS can be provided in compliance with the Commission’s requirements without the use of Ultratec’s proprietary IP CTS technologies,⁶ and that Ultratec has at all times continued to license its captioned telephone service and IP CTS technologies to third parties.⁷ Ultratec also confirmed that it offered to settle its dispute with Sorenson by offering Sorenson a license for use in IP CTS. No agreement was reached. Finally, Ultratec concluded that Sorenson has not demonstrated any justification for the Commission unilaterally to impose a new, broader licensing requirement on Ultratec.⁸ Doing so would be inconsistent with the Commission’s precedent and would undermine the incentive of TRS providers to innovate to secure a competitive advantage.⁹

¹ 47 C.F.R. § 1.1206(b)(1).

² Comments of Ultratec, Inc. and CapTel, Inc. on Petition Filed by Sorenson Communications, Inc. and CaptionCall, LLC Regarding Licensing of Internet Protocol Captioned Telephone Service, CG Docket Nos. 03-123, 13-24 (filed Dec. 29, 2014) (“Ultratec Comments”).

³ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Declaratory Ruling, 22 FCC Rcd 379 (2007).

⁴ See Ultratec Comments at 2-5.

⁵ See *id* at 8-11, 15-16.

⁶ See *id* at 5, 13-15, 22-24.

⁷ See *id* at 6-8.

⁸ See *id* at 21, 23.

⁹ See *id* at 24-32.

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CaptionCall Application

Ultratec also renewed its request to the Commission to deny the CaptionCall Application. Ultratec explained that the testimony of certain Ultratec representatives referenced in Ultratec's prior filing in this proceeding expressly referred to situations in which a CaptionCall communications assistant ("CA") "falls behind" when captioning an IP CTS call.¹⁰ According to these representatives, CaptionCall instructs its CAs in such instances to skip ahead to the current dialogue, which results in their captions being incomplete.¹¹ Consequently, CaptionCall does not, in practice, comply with the Commission's verbatim captioning requirement irrespective of the content of CaptionCall's CA training manuals. Ultratec explained that, by contrast, the QuickWords cited by CaptionCall in its prior filing in this proceeding misleadingly refer to situations in which CaptionCall's CAs are unable to discern the dialogue due to reasons beyond their control.¹²

Ultratec also explained that it frequently has heard complaints from IP CTS users that CaptionCall skips dialogue in IP CTS calls, and that CaptionCall representatives have been questioned about this problem by state TRS administrators during meetings of the National Association of State Relay Administrators. Further, Ultratec encouraged the Commission to inquire of CaptionCall whether it uses a voice buffer or any other method to enable its CAs to pause dialogue if they fall behind in a call or if needed to provide time to make corrections in captions during a call.¹³

Moreover, contrary to CaptionCall's assertions, IP CTS providers do not have discretion under the Commission's rules to determine whether to comply with the Commission's verbatim captioning requirement or instead to sacrifice accuracy in favor of reduced latency.¹⁴ Inadequate accuracy during an IP CTS call prevents functional equivalency and is an especially problematic practice because IP CTS users often will be unable to determine that content was dropped.¹⁵ In the context of 911 calls, in particular, this noncompliant practice could lead to real harms.

¹⁰ See Letter from Phil Marchesiello, counsel to Ultratec, Inc., to Marlene H. Dortch, Secretary, FCC, and Kris Anne Monteith, Acting Chief, CGB, CG Docket No. 03-123, at 5-7 (filed Dec. 23, 2014) ("Ultratec Letter").

¹¹ See *id* at 9-11.

¹² See Letter from Michael B. DeSanctis, counsel to CaptionCall, to Marlene H. Dortch, Secretary, FCC, and Kris Anne Monteith, Acting Chief, CGB, CG Docket No. 03-123, at 6 (filed Jan. 30, 2015)

¹³ See Ultratec Letter at 9.

¹⁴ See *id* at 10, 12 n. 25.

¹⁵ See *id* at 12.

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Finally, Ultratec encouraged the Commission independently to test CaptionCall's service if the Commission desires further evidence of CaptionCall's practice of not captioning calls verbatim.¹⁶

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Please do not hesitate to contact the undersigned with any questions that you may have regarding this matter.

Sincerely,

/s/ Phil Marchesiello

Phil R. Marchesiello

Counsel for Ultratec, Inc.

cc (via e-mail): Greg Hlibok
Robert Aldrich
Eliot Greenwald
Darryl Cooper
Caitlin Vogus

¹⁶ See *id* at 11-12.