



November 16, 2015

Via Electronic Filing

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *Misuse of Internet Protocol (IP) Captioned Telephone Service*, CG Docket No. 13-24

Dear Ms. Dortch:

On November 12, 2015, on behalf of CaptionCall, LLC and its affiliate Sorenson Communications, Inc. (collectively “CaptionCall”), Scott Wood, Sorenson’s General Counsel, Bruce Peterson, CaptionCall’s Vice President of Marketing, Walter Anderson of Harris, Wiltshire & Grannis LLP, and I met with Gregory Hlibok and Eliot Greenwald of the Consumer and Governmental Affairs Bureau regarding the above-referenced proceedings. Darryl Cooper of the Consumer and Governmental Affairs Bureau participated via telephone.

During the meeting, we updated the Commission on the status of the ongoing patent litigation between CaptionCall and Ultratec. Mr. Wood indicated that CaptionCall has spent millions of dollars defending against three lawsuits asserting patent infringement claims, many of which arise from CaptionCall’s implementation of a mechanism for turning captions on and off during an IP CTS call—which is necessary to comply with the Commission’s rule that IP CTS consumers be able to activate captions with “only one step.”¹ Mr. Wood also explained that Ultratec has filed—but not yet served—a fourth infringement lawsuit based on a consumer’s ability to activate and deactivate captioning.

As we have previously explained,² the Commission should adopt a clear requirement that IP CTS providers must allow consumers to turn captions on *and* off during a call, Ultratec’s litigation strategy notwithstanding. We noted that, should the Commission implement such a requirement, the United States government, through the Department of Justice (“DOJ”), would

¹ See 47 C.F.R. § 64.604(c)(10) (“Each IP CTS provider shall ensure that each IP CTS telephone they distribute, directly or indirectly, shall include a button, icon, or other comparable feature that is easily operable and requires only one step for the consumer to turn on captioning.”).

² See Letter from John T. Nakahata, Counsel to CaptionCall, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123, 13-24 (Aug. 4, 2014).

Ms. Marlene H. Dortch
November 16, 2015
Page 2 of 2

step into CaptionCall's place in the ongoing patent litigation, insofar as it involves claims related to activating and deactivating captions.³ As a result, Ultratec would then negotiate a reasonable license fee with, or continue to litigate its infringement claims against, DOJ. We emphasized that, in that scenario, the Commission would not be called upon to determine patent invalidity, nor would the Commission be asked to adjudicate whether a particular license fee is reasonable.

Finally, we explained that CaptionCall has decided to withdraw its petition for a price-cap mechanism for IP CTS rates. CaptionCall now fully supports the current MARS method for setting rates. CaptionCall will explain its rationale for this decision under separate cover.

Sincerely,



John T. Nakahata
Counsel for CaptionCall, LLC

cc: Gregory Hlibok
Eliot Greenwald
Darryl Cooper

³ See 28 U.S.C. § 1498(a) (“Whenever an invention described in and covered by a patent of the United States is used or manufactured ... for the United States without license of the owner thereof or lawful right to use or manufacture the same, the owner’s remedy shall be by action against the United States in the United States Court of Federal Claims for the recovery of his reasonable and entire compensation for such use and manufacture.”).