

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Telecommunications Relay Services And Speech-to-Speech)	CC Docket 98-67
Services for Individuals with Hearing and Speech Disabilities)	CG Docket 03-123
)	
Petition for Declaratory Ruling on Video Relay)	
Service Interoperability)	

To: The Commission

***REPLY TO COMMENTS ON PETITION FOR DECLARATORY RULING CONCERNING
VRS EQUIPMENT INTEROPERABILITY***

Hands On Video Relay Services, Inc. (“Hands On”), by its counsel, and pursuant to Public Notice DA 05-509 (March 1, 2005), replies to the comments submitted on the February 15, 2005 Petition for Declaratory Ruling on Interoperability filed by the California Coalition of Agencies Serving the Deaf and Hard of Hearing (“California Coalition”). In support, the following is shown.

The commentors in this proceeding overwhelmingly support mandating equipment interoperability.¹ These comments aptly illustrate the danger and inconvenience that non-interoperable equipment poses to deaf and hard of hearing persons. The only comment that opposes the California Coalition’s request that the Commission require TRS equipment to be interoperable is from Sorenson Media, Inc. (“Sorenson”). Sorenson is the only VRS provider that distributes

¹See Comments of Alexander Graham Bell Association for the Deaf and Hard of Hearing; Comments of MCI; Comments of AT&T; Comments of Telecommunications for the Deaf, Inc. and Hard of Hearing Consumer Advocacy Network; Comments of Rehabilitation Engineering Research Center on Telecommunications Access; Comments of National Association of the Deaf; Comments of Communication Service for the Deaf; Comments of Hamilton Telephone Company. *See also*, e.g., informal comments of Diane Plassey, James L. Beldom, Sr., Tim Johnson, Tommy Walker, Tanya Miller, Mary Ann Seremeth, Ando Ferguson, Ariela Stein, Travis Oshman, Rikki DiMarla, Thomas J. DellaMonica, Pakuna Spady, Brittney Toliver, Heather Willman, Merime Ahmed, Richard Roehm, Paul Singleton.

equipment and then blocks its use with other providers. Though Sorenson's comments are lengthy, they amount largely to an exercise in self-congratulation and obfuscation of the issues. Sorenson presents no compelling reason for the FCC to depart from decades of precedent favoring an open, interoperable telephone network. The Commission should therefore reject Sorenson's exhortation that it be allowed to continue to block access to other providers from the equipment it distributes.

At the outset it is critical to understand that Sorenson's VP-100 video-phone is in fact operable with the VRS provided by all other providers. In all material respects, the VP-100 is the same device as the Dlink I2Eye video-phone distributed by other VRS providers. It uses the same chipset, a chipset Sorenson designed prior to any intention to enter the VRS market. Moreover, the Dlink video-phone and the VP-100 video-phone are manufactured by the same company, Dlink. The only material difference is that the VP-100 is separately branded. The VP-100 will work with Hands On's VRS. The VP-100 will work with Sprint's VRS. The VP-100 will work with Hamilton's Telephone's VRS. The Sorenson VP-100 video-phone will work with every other provider's VRS, if Sorenson allows it. However, the VP-100 does not allow deaf and hard of hearing users to originate a call with other providers' VRS service because Sorenson blocks access to other providers from the device. As each new VRS provider comes on line, Sorenson blocks all IP addresses of that VRS provider.² So any argument Sorenson makes or implies that lack of interoperability is a by-product of tailoring the VP-100 to its service, is simply false. Sorenson blocks the VP-100 from accessing other VRS providers in order to prevent competition.

²This blocking of all IP addresses associated with a competing VRS provider means that a VP-100 user may not be able to contact an HOVRS or CSD deaf employee on a point to point call. This is clearly a violation of Section 202's prohibition on discriminatory practices.

An example of Sorenson's misleading comments concerning the VP-100 is its statement that, "Sorenson's equipment however, can only be used in conjunction with the Sorenson system. It is an integrated system providing equipment, features, and services that cannot be separated or used independently." Comments at 7. This is simply untrue. Except for Sorenson's blocking access to the IP address for Hands On, a Sorenson VP-100 user would be able to access Hands On's VRS and place a call using Hands On's VRS service. Indeed, a close review of Sorenson's comments shows it admits it does not block incoming calls *to* a VP-100 from another VRS provider. One can presume therefore that such a call would be completed in the normal course, and Hands On knows that such a call can be made. However, at least prior to the filing of the California Coalition's petition, Sorenson *contractually prohibited* its users from receiving such calls. Clearly then, the device will work with other VRS providers but for Sorenson blocking access to those providers. Sorenson's implication to the contrary, that the VP-100 is some type of integrated device that will not work with another provider's service, is thus plainly false. Were it otherwise, Sorenson would not need to block access to other providers. Its equipment would simply not work except with its own VRS.

In this connection, Sorenson's discussion of the Captel device misses the point that the VP-100 is perfectly compatible with every other VRS system, except that Sorenson blocks access to those systems. Moreover, Captel is more than a piece of equipment. As described by the Captel website, "CapTel phone users place a call in the same way as dialing a traditional phone. As they dial, the CapTel phone automatically connects to a captioning service. When the other party answers, the CapTel phone user hears everything that they say, just like a traditional call. Behind the scenes, a specially trained operator at the CapTelSM captioning service transcribes everything the other party says into written text, using the very latest in voice-recognition technology. The written text appears

on a bright, easy-to-read display window built into the CapTel phone. The captions appear almost simultaneously with the spoken word, allowing the CapTel phone users to understand everything that is said — either by hearing it or by reading it. Thus, it is clear that Captel is a separate TRS service, not simply a piece of equipment. Captel is therefore not analogous to the situation here where Sorenson blocks its users' access to other providers by blocking the IP addresses of competitors. In any event, Hands On understands that both Sprint and Hamilton offer Captel. So this is not an example where access to the device is blocked from any other provider.

Sorenson also asserts that its customers are expressly advised: (1) that there are many choices for VRS service, (2) that the consumer is free to use other equipment to contact other VRS providers, and (3) that the consumer's Internet Service Provider may require an additional IP address and monthly charge to use multiple video relay devices. Sorenson Comments at 4-5. Attached as Exhibit 1 is Sorenson's VP-100 Service and Products Agreement. It contains none of the disclosures Sorenson claims it advises persons agreeing to use its service.³ More fundamentally, however, Sorenson's argument again misses the point. Hearing persons are not required to have multiple lines

³We note that the Sorenson User Agreement at paragraph 2 contains a contractual restriction that if Sorenson provides a high bandwidth line for the user, such a line can only be used for Sorenson VRS. Sorenson maintains it has the right to terminate VRS service to persons who violate this provision. Plainly these provision are unreasonable. Sorenson is obligated to provide VRS on demand. Under Section 225 of the Act it cannot refuse to serve any deaf individual making a call which originates in the United States. Its threat to terminate service to persons violating its contractual provisions is plainly contrary to its service obligations.

Other provisions of the Sorenson User Agreement are problematic. Section 2(C) of the agreement gives Sorenson the right to monitor users' calls in violation of Section 64.604(a)(2). Sorenson limits its damage liability in Section 4. This raises an unreasonable practices issue. *See American Satellite Corporation v. Southwestern Bell Telephone Company*, 64 F.C.C.2d 503 (1977). Moreover, Section 5 of the agreement purports to require arbitration of any dispute. This appears to violate consumers' rights under Section 206, 207 and 208 of the Act to resort to the FCC's complaint process.

in order to access multiple carriers. It is plainly not functionally equivalent to require deaf persons to have multiple customer premises equipment and lines to have a choice of VRS carriers.

Furthermore, Sorenson fails to discuss longstanding policy. The FCC's rules specifically eschew blocking of competing providers. In the analogous situation of operator services, Section 64.704 (Call blocking prohibited), specifically requires call aggregators to allow consumers to use 800 and 950 codes to obtain access to the provider of operator services of their choice. That provision further requires that all equipment manufactured or imported be capable of allowing the consumer to access the operator services provider of his or her choice by using equal access codes. This requirement of equipment interoperability is plainly analogous to the present situation.

Sorenson also fails to address the point that requiring consumers to employ multiple equipment and/or multiple lines is extremely wasteful and inefficient. And this is doubly so when dealing with the deaf community which has a history of discrimination and underemployment. Deaf persons are likely to be unable to afford the multiple lines, and static IP addresses Sorenson would have them employ to access multiple VRS providers. Plainly, in order to combat Sorenson's blocking scheme, competing VRS carriers will be required to develop their own branded video-phones and block each of their competitors. Carried to its logical extreme then, Sorenson's argument would require a consumer who wanted access to all eight VRS providers to purchase and install eight different video phone devices, perhaps connected with eight different high speed lines. A hearing person, however, desiring to use a different carrier, merely dials an equal access code. This is simply not functionally equivalent telephone service.

Sorenson suggests that its blocking scheme is necessary for it to compete with "better funded dominant carriers." That argument is laughable. Sorenson's blocking scheme has allowed it to

become the dominant VRS carrier. Sorenson boasts of having a majority of the VRS market share. In fact, Sorenson's estimate of its market share for 2005-06 amounted to 66 percent of the total estimated VRS minutes for all carriers. *See* Interstate Telecommunications Relay Fund Payment Formula and Fund Size Estimate filed by the National Exchange Carrier Association, at n.32 (April 25, 2005). Under these circumstances Sorenson's competitive necessity argument rings hollow.

Although Hands On considers Sorenson's blocking of the IP addresses of its competitors to be the its most egregious violation of the Act and of long standing Commission policy, we take this opportunity to respond to certain claims Sorenson makes concerning access to its LDAP database. Sorenson claims that to incorporate other devices into its LDAP database it must have license rights and access to that information. Sorenson Comments at 12-13.

There are several problems with this argument. First, the plain fact is that the majority of video-phone devices used by deaf and hard of hearing consumers, other than the Sorenson VP-100, are the Dlink I2Eye video-phone which uses the same Sorenson chipset used in the VP-100. Dlink makes these devices under license from Sorenson, so Sorenson could easily arrange the rights to access Dlink information if it does not in fact have those rights already. And in fact, as Hands On pointed out in its opening comments, Sorenson has admitted it has access to the Dlink information since every Dlink call contacts a Sorenson server.⁴

Second, there is absolutely no problem with Sorenson making the information contained in its LDAP database available to other providers so that other providers' users could call Sorenson's users using a video-phone number, rather than using the IP address. There are no technical

⁴Sorenson's suggestion therefore (Sorenson Comments at 12-13) that it does not have the licensing rights to integrate the Dlink and VP-100 directories is extremely disingenuous since the two directories reside on Sorenson servers.

restrictions. There are no legal restrictions. There is only Sorenson's desire to leverage the LDAP database in order to lock consumers into using its VRS service.

Third, Sorenson's LDAP database is the functional equivalent of directory access. The Commission just reaffirmed that Section 251(b)(3) permits competitors to have the same access to directory assistance information that local exchange carriers provide to themselves. *See FCC Upholds Rules Governing Competitive Access to Directory Assistance, First Report and order and Order on Reconsideration and Notice, FCC 05-93 (April 29, 2005)*. A similar holding, that competing TRS providers -- which are the functional equivalent of LECs -- should have access to directories such as LDAPs, is required here to ensure functional equivalence for TRS users.

Sorenson seems to discount the public interest threat posed by lack of interoperability, for example, creating long waits to place urgent or emergency calls. Instead, Sorenson suggests that the real problem is a lack of interpreters to handle VRS traffic. Sorenson Comments at 16. Hands On has previously addressed the issue of sufficient interpreters in the pending proceeding concerning the answer speed waiver and will not repeat its arguments here. Suffice it to say that Sorenson appears to be the only provider with a serious answer speed problem.⁵ Hands On, for example, is currently answering 85 percent of calls within 30 seconds and understands that most other providers have answer speeds averaging under one minute.

Sorenson tries to minimize the public safety risk of blocking its competitors' IP addresses by explaining it is working on finding a way to move emergency callers to the top of its call waiting queue. Let's be clear here. Sorenson has no current way to expedite emergency calls. It is merely

⁵In what is perhaps the epitome of understatement, Sorenson states that its "VP-100 users occasionally experience delays in placing calls through Sorenson VRS." Sorenson Comments at 16. The Commission should evaluate that statement against Sorenson's reported answer speeds.

working on finding a way to do so. Until it does, it believes it is perfectly reasonable that someone trying to make an emergency call using the VP-100 should wait whatever time it takes to place that call with Sorenson, rather than using another provider that might have an available interpreter. That must give deaf and hard of hearing persons comfort that Sorenson cares more about them than the profits generated by their VRS traffic. Even were Sorenson able to achieve such a result, selective elevation of calls in the queue raises issues of discrimination.

Beyond Sorenson's admission that it lacks a current solution for handling emergency traffic, the issue of non-emergency, but still urgent calls remains: an investor trying to place a stock trade at 3:45 pm, prior to the exchange closing at 4 pm, but having to wait 20 minutes, for example, or the mother of a sick child trying to call the doctor's office, having to wait in front of the VP-100 while her child cries. Sorenson's VRS solution is no solution when consumers are forced to wait and wait and wait because Sorenson wants to lock up every possible minute of its VP-100 users' VRS traffic.

Sorenson also falls back on the argument that VRS is in its technological infancy. Sorenson Comments at 19-20. That may have been the case in March of 2000, when there was one provider and but a few minutes of VRS per month, but that argument is difficult to accept now when there are eight providers and 1.8 million minutes a month, and growing.

Sorenson further suggests it has made significant investment in its VP-100 and needs to lock consumers into its service to recoup its investment in the device. Factually, Sorenson's argument is extremely misleading. As discussed above, the VP-100 is essentially a separately branded Dlink I2Eye video-phone. Sorenson developed the chip-set and the Dlink video-phone well prior to deciding to enter the VRS market in July of 2002. This was part of its internal operational strategy to concentrate on OEM partners, rather than be a direct marketer of software and equipment. Once

Sorenson decided to offer VRS, however, it then decided to make minor modifications to the Dlink to tailor the device for the deaf market. The cost of those modifications is minor compared to the cost of developing the Dlink video-phone. That device, which Sorenson licensed to Dlink and for which Sorenson receives a royalty from Dlink for every such device, is sold on the open market.

These facts plainly show that development of the VP-100 was not based on Sorenson's belief that it had to recoup its investment through VRS. Sorenson had no idea it would provide VRS when it began developing the SVX chipset and contracting with Samsung and Dlink in the 2000 and 2001 time frame to build the device. Use of the VP-100 for the deaf and hard of hearing was an afterthought for Sorenson stemming from its decision to enter the VRS market in July of 2002. Indeed, it was not until after July 26, 2002, that Sorenson even engaged in any beta testing of the VP-100 with the deaf and hard of hearing community. Prior to that time, Sorenson's own deaf markets representative, Jon Hodson, has not even tested the device. *See Exhibit 2.*⁶ It was only then that Sorenson even became concerned with "what features would be required for the deaf market." *Id.*⁷

Beyond Sorenson's exaggerated and misleading discussion of its investment in the VP-100, the predicate to Sorenson's argument, that its VRS service should provide it a return on its investment in the VP-100 – whatever that investment may be – is fallacious. Under current FCC policy, Sorenson is not entitled to any return on its investment on equipment supplied to consumers. Customer premises equipment is simply not considered a compensable VRS cost. Although Hands On disagrees with this policy, it and Sorenson must accept this policy until the FCC changes it. If

⁶Exhibit 2 includes emails provided by Sorenson in discovery in litigation with Hands On. The email was originally classified as "confidential" or "highly confidential" pursuant to a protective order entered in the proceeding, but was recently declassified by Sorenson's counsel.

⁷For example, on July 30, 2002, Sorenson COO Pat Nola requested Hands On to evaluate its video-phone for use by the deaf community, which Hands On did. *See Exhibit 3.*

Sorenson is obtaining a return on its investment in equipment as a result of its VRS service, then it is plainly earning more than the allowed 11.25 percent on investment that the Commission allows. Perhaps a Commission audit of Sorenson's annual cost estimates is in order.

If the FCC wishes to encourage investment in VRS equipment, it should consider VRS equipment a reasonable cost of providing VRS and allow that equipment to be included in a provider's investment calculation. What it should not do is sanction a scheme whereby providers balkanize the VRS market with non-interoperable equipment. Otherwise, the FCC will incent each VRS provider to design and distribute its own non-interoperable equipment, compounding the problems Sorenson's lack of interoperability poses to the deaf and hard of hearing consumers.

In essence, Sorenson's argument is nothing more than the same shop worn argument this Commission has heard for years opposing such competition enhancing measures as unrestricted resale, full interconnection rights for competing carriers, and the provision of unbundled network elements. The Commission has rightly rejected this argument in favor of a marketplace where consumers are provided a meaningful choice of providers and where carriers are not allowed to exploit bundling arrangements, tie-ins, or bottleneck facilities.

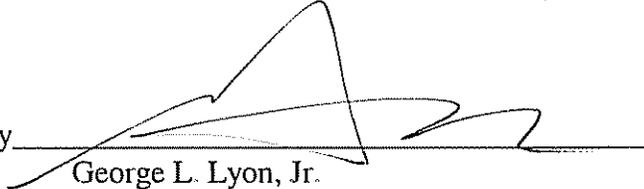
VRS providers should compete by offering quality service, not by blocking the service of their competitors. The Commission recently reaffirmed this principle in the *Madison River* consent decree, where the Enforcement Bureau took action to prevent blocking access to VoIP service, and the Commission most recently reaffirmed this principle in upholding the rights of competing carriers to directory assistance information. This principle is so firmly embedded in Commission precedent because it is necessary to achieve a level playing field so that consumers have the widest choice in service without artificial market constraints.

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Respectfully submitted,

HANDS ON VIDEO RELAY SERVICES, INC.

By

A handwritten signature in black ink, appearing to read "George L. Lyon, Jr.", written over a horizontal line.

George L. Lyon, Jr.
Its Counsel

Lukas, Nace, Gutierrez & Sachs, Chartered
1650 Tyson's Blvd., Suite 1500
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May 2, 2005

Exhibit 1

VP-100 SORENSON VRS™ SERVICE & PRODUCTS AGREEMENT

Thank you for ordering the VP-100 Premium Sorenson VRS™ Service & Products (collectively the “**VRS**”). By using the VRS, you agree to the terms and conditions set forth in this Agreement. If you do not agree to these terms and conditions, please return the products to Sorenson Media as soon as possible and, in any event, do not use the VRS because if you do so you will be bound by the terms and conditions of this Agreement.

Your use of the VRS shall, at all times, be contingent upon your meeting the following terms and conditions. In the event that you do not meet or you breach any term or condition of this Agreement, Sorenson Media shall have the right, but not the obligation, to immediately terminate the VRS and, if that happens, you shall be required to immediately return all of the Products provided to you in conjunction with the VRS to Sorenson Media. Sorenson shall also have the right to immediately terminate any broadband service level provisions Sorenson supplied to be used with the VRS.

1. Definitions.

In this Agreement, the following words shall have the following meanings:

A. “**You**” and “**your**” shall mean you.

B. “**Sorenson Media**,” “**our**,” and “**us**” shall mean Sorenson Media, Inc., and its employees, independent contractors, and affiliated entities authorized to provide you with the VP-100 Premium Sorenson VRS™ Service & Products under this Agreement.

C. A “**Video Relay Service**” is a service which enables a user with a hearing or speech disability who uses American Sign Language (“**ASL**”) to communicate with a standard voice telephone user through video equipment installed at the ASL user’s location and at the video interpreter’s location.

D. “**The VRS**” shall mean the VP-100 Premium Sorenson VRS™ Service & Products.

2. General Terms And Conditions.

A. You may not use the Sorenson supplied products and services to initiate interpreting services from a Video Relay Service provider other than Sorenson Media. You also may not use the Sorenson supplied products to offer competing interpreting services. If Sorenson Media provides a high bandwidth line or lines to provide you the VRS, then you agree that line or those lines shall be dedicated to using the Sorenson VRS and for no other use. Sorenson Media shall have the right to immediately terminate, suspend, restrict, or cancel your use of the VRS without advance notice in the event that Sorenson Media becomes aware that you are or may be breaching the prohibitions of this paragraph.

B. You agree to not use the VRS for any abusive, pornographic, lewd, obscene, harassing, fraudulent, or unlawful purposes and to not use the VRS in a way that interferes with our ability to provide the VRS to you or other customers. You are expressly prohibited from engaging or participating in communications or conduct of an abusive, pornographic, lewd, obscene, harassing, fraudulent, or unlawful nature while using the VRS and from allowing others to do so. Sorenson Media shall have the right to immediately terminate, suspend, restrict, or cancel your use of the VRS without advance notice in the event that Sorenson Media becomes aware that you are or may be breaching the prohibitions of this paragraph.

C. Further, Sorenson Media reserves the right to investigate any abusive, pornographic, lewd, obscene, harassing, fraudulent, or unlawful use or access of the VRS or breach of this Agreement and to seek reimbursement and damages, and Sorenson Media will not be liable for any cost or damage arising either directly or indirectly from your use or misuse of the VRS. Further, Sorenson Media reserves the right to monitor your use of the VRS to ensure you do not violate the terms and conditions of this Agreement and to terminate this Agreement and the VRS immediately in the event of any violation.

D. The VRS may not be available at all times due to interruptions, technical problems, and/or system upgrades and maintenance. The VRS is not for Emergency calls and is not a substitute for 911 services. Further, all interpreters provided in conjunction with the VRS may not always be available at all times and you have no right to be provided the use of any particular interpreter in any or all instances or occasions nor to become privy to the identity of any interpreters.

E. Calls made through the VRS are confidential. Sorenson Media will not disclose any information from your conversations, and no records of the conversations content are kept. Sorenson Media has implemented technology and security features and strict policy guidelines to safeguard the privacy of your video relay calls and any customer identifiable information from unauthorized access or improper use, and Sorenson Media will continue to enhance its security procedures as new technology becomes available.

F. The VRS is owned by Sorenson Media, Inc. and/or its licensors and is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. This Agreement and/or your use of the VRS gives you no right, title, or interest to the VRS or any aspect thereof, including but not limited to any intellectual property rights. You are expressly prohibited from asserting or filing registrations and/or applications for ownership or intellectual property rights in the VRS in any country, nation, or jurisdiction throughout the world, and you are prohibited from copying, decompiling, reverse engineering, disassembling, modifying, or creating derivative works of the VRS or any aspect thereof. This provision will continue to apply after this Agreement ends.

G. Sorenson Media reserves the right to terminate the VRS and this Agreement at any time, with or without notice.

H: You the Sorenson VRS Client understand and hereby acknowledge that your use of Sorenson VRS requires that your voice and/or image may be recorded and transmitted over the Internet. You further understand that due to the nature of the internet any privacy right, copyright or other right or interest in your voice, image or likeness may be lost with respect to any specific transmission as a result of such transmission. You authorize and specifically grant permission to Sorenson Media, Inc. to record and transmit your voice, likeness and/or image over the Internet solely for the purpose of use of VRS interpretation services at Sorenson Media, Inc., and further release and agree to hold Sorenson Media, Inc. harmless from any and all responsibility for any such loss of rights and/or interests resulting from transmission of your voice, image and/or likeness over the internet. The foregoing shall not be construed to be a consent to use of your voice, image or likeness for purposes other than use of Sorenson VRS. Except for the authorization and permission specifically granted to Sorenson Media, Inc. in this agreement, you reserve all right, title and interest in and to any and all forms of your voice, image or likeness. You as a Sorenson VRS client agree to not use or facilitate the use of the voice, image, and/or likeness of the Sorenson VRS interpreter in any way other than for the purposes intended by Sorenson Media, Inc. for performance of its Sorenson VRS interpretation services. Sorenson Media shall have the right to immediately terminate, suspend, restrict, or cancel your use of the VRS without advance notice in the event that Sorenson Media becomes aware that you are or may be breaching the prohibitions of this paragraph.

3. **Indemnification:**

You agree that Sorenson Media shall not be responsible or liable for any claims or causes of action that arise from your use of the VRS. Further, you agree to indemnify and hold Sorenson Media and its shareholders, officers, directors, employees, agents, and affiliated entities harmless for all costs, fees, expenses, and damages of any nature whatsoever related to any such claims, including court and arbitration costs, attorneys' fees, and the costs of other professionals, unless such claims are solely based on Sorenson Media's willful misconduct. This provision will continue to apply after this Agreement ends.

4. **Limitations of Liability:**

In no event shall Sorenson Media be liable for punitive, reliance, or special damages, or for indirect or consequential damages, including but not limited to lost profits or revenue or increased costs of operation. These limitations apply even if the damages are foreseeable or we are told they are possible, and they apply to any negligence claim that does not involve willful misconduct or intentional misconduct no matter how that claim is styled or on what legal grounds (such as contract, tort, statute, misrepresentation), it is based on. If our negligence causes damage to person or property, Sorenson Media will be liable for no more than the amount of direct damages to the person or property.

Except as expressly provided in this Section of the Agreement, and then only to the extent provided, Sorenson Media makes no warranties or representations of any kind regarding the VRS and Sorenson Media disclaims any and all warranties, express or implied, including but not limited to any warranties of merchantability, fitness for a particular purpose, quiet enjoyment, performance, or infringement. Sorenson Media also makes no warranty that the VRS will be uninterrupted or error free. Sorenson Media does not authorize anyone, including, but not limited to, Sorenson Media employees, agents or representatives, to make a warranty of any kind on Sorenson Media's behalf and you should not rely on any such statement.

This Section of the Agreement will continue to apply after the Agreement ends.

5. **Dispute Resolution:**

It is important that you read this entire Section carefully. This Section provides for resolution of disputes through final and binding arbitration before a neutral arbitrator instead of in a court by a judge or jury or through a class action. You continue to have certain rights to obtain relief from a federal or state regulatory agency.

A. **Binding Arbitration.** The arbitration process established by this Section is governed by the Federal Arbitration Act ("FAA"), 9 U.S.C. §§ 1-16. You have the right to take any dispute that qualifies to small claims court rather than arbitration. All other disputes arising out of or related to this Agreement or the VRS (whether based in contract, tort, statute, fraud, misrepresentation or any other legal or equitable theory) must be resolved by final and binding arbitration. This includes any dispute based on any product, service or advertising having a connection with this Agreement or the VRS and any dispute not finally resolved by a small claims court. The arbitration will be conducted by one arbitrator using the procedures described by this Section of the Agreement. If any portion of this Dispute Resolution Section is determined to be unenforceable, then the remainder shall be given full force and effect.

The arbitration of any dispute shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA"), as modified by this Agreement, which are in effect on the date a dispute is submitted to the AAA. In conducting the arbitration and making any award, the arbitrator shall be bound by and strictly enforce the terms of this Agreement and may not limit, expand, or otherwise modify its terms.

No dispute may be joined with another lawsuit, or in an arbitration with a dispute of any other person, or resolved on a class-wide basis. The arbitrator may not award damages that are barred by this Agreement. You and Sorenson Media both waive any claims for an award of damages that are excluded under this Agreement.

B. Arbitration and Filing Procedures.

Before you take a dispute to arbitration or to small claims court, you must first write to us at Sorenson Media, Inc., c/o Legal Dept., 2511 South West Temple, Salt Lake City, Utah USA 84115, and give us an opportunity to resolve the dispute. Similarly, before Sorenson Media takes a dispute to arbitration, Sorenson Media will first attempt to resolve it by contacting you. If the dispute cannot be satisfactorily resolved within sixty days from the date you or Sorenson Media is notified by the other of a dispute, then either party may submit the arbitration to the AAA. Information about the AAA, the arbitration process, and the AAA's Arbitration Rules and its fees are available from the AAA on the Internet at www.adr.org

Any claim or dispute arising out of the VRS or relating to this Agreement must be brought within two (2) years after the date the basis for the claim or dispute first arises.

Unless applicable substantive law provides otherwise, each party will pay its own expenses to participate in the arbitration, including attorneys' fees and expenses for witnesses, document production and presentation of evidence. If you prevail before the arbitrator, however, you may seek to recover the AAA's fees and the expenses of the arbitrator from us. If Sorenson Media prevails before the arbitrator, then Sorenson Media may seek to recover the AAA's fees and expenses of the arbitrator from you.

C. Notwithstanding anything in this Agreement, all actions arising from or pertaining to this Agreement and all disputes between the parties shall be initiated, maintained, and resolved in the State of Utah, USA.

D. This Section of the Agreement will continue to apply after the Agreement ends.

6. Miscellaneous:

A. Acts Beyond Our Control. Neither you nor Sorenson Media will be responsible to the other for any delay, failure in performance, loss or damage due to fire, explosion, power blackout, earthquake, volcanic action, flood, the weather elements, strike, embargo, labor disputes, civil or military authority, war, terrorism, acts of God, acts or omissions of carriers or suppliers, acts of regulatory or governmental agencies, or other causes beyond our reasonable control, except that you must pay for any VRS service you use during such time frame.

B. Assignment. Sorenson Media can assign all or part of our rights or duties under this Agreement without notifying you. If Sorenson Media does that, Sorenson Media have no further obligations to you. You may not assign this Agreement or your right to use the VRS without our prior written consent.

C. Entire Agreement. This Agreement constitutes the entire agreement between us and supersedes all prior agreements, understandings, statements or proposals, and representations, whether written or oral, regarding the VRS. No written or oral statement, advertisement, or service description not expressly contained in the Agreement will be allowed to contradict, explain, or supplement it. Neither you nor Sorenson Media is relying on any representations or statements by the other party or any other person that are not included in this Agreement.

Sorenson Media may change this Agreement from time to time. If Sorenson Media makes any changes to the prices or charges, Sorenson Media will post them on its web page at <http://www.sorensonvrs.com/license>. You agree that posting on the web page satisfies any applicable notice requirements and further agree to review this web page on a commercially timely and reasonable basis. If you continue to be enrolled in, use, or pay for the VRS after any changes in the prices, charges, terms or conditions, you agree to the changes.

D. Export Restrictions. You acknowledge that the products provided with the VRS hereunder are subject to the export control laws and regulations of the U.S.A. and other countries. You agree that you will not export or re-export the products, any part thereof, or any process or service that is the direct product of a product (collectively the "***Restricted Components***") to any country, person or entity subject to U.S. export restrictions. You specifically agree not to export or re-export any of the Restricted Components (1) to any country to which the U.S. has embargoed or restricted the export of goods or services, which currently include, but are not necessarily limited to Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria, or to any national of any such country, wherever located, who intends to transmit or transport the Restricted Components back to such country or (2) to any person or entity who has been prohibited from participating in U.S. export transactions by any federal agency of the U.S. government. You warrant and represent that neither the Bureau of Industry and Security (BIS) nor any other U.S. federal agency has suspended, revoked or denied your export privileges.

E. Governing Law. This Agreement will be governed by the law of the State of Utah, USA, without regard to its choice of law rules, and the arbitration provisions of this Agreement will be governed by the Federal Arbitration Act. This governing law provision applies no matter where you reside, or where you use or pay for the VRS. This Agreement shall also not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. Any translation of this Agreement is done for local requirements and in the event of a dispute between the English and any non-English versions the English version of this Agreement shall govern. Les parties aux présentes confirment leur volonté que cette convention soit rédigée en langue anglaise seulement.

F. Government End Users. The VRS and related documentation are "Commercial Items", as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (1) only as Commercial Items and (2) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished-rights reserved under the copyright laws of the United States. Sorenson Media, Inc., 4393 South Riverboat Road, Suite 300, Salt Lake City, Utah 84123, USA

Sorenson Media, Inc.
4393 South Riverboat Road, Suite 300
Salt Lake City, Utah 84123 USA
Phone: (801) 287-9400 TTY: (801) 287-9436

G. No Third Party Rights. This Agreement does not provide any third party with a remedy, claim, or right of reimbursement.

H. Notices. Notices from you to Sorenson Media must be provided as follows: Customer Service Dept., Sorenson Media, Inc., 4393 South Riverboat Road, Suite 300, Salt Lake City, Utah 84123, USA. Sorenson Media's notice to you, to the extent applicable, may be made by posting on our web site, newspaper ad, postcard, letter, call to your billed telephone number, revision to these terms and conditions, or an email to an address provided by you to us. You agree to notify us in writing promptly in the event you change your address, including but not limited to your Internet and e-mail address.

I. Remedies. You agree that, in the event you breach, or threaten to breach, any term or condition of this Agreement, that Sorenson Media shall immediately be entitled to seek all remedies available to it, at law and in equity. In the event that it becomes necessary for Sorenson Media to seek injunctive relief, Sorenson Media shall not be required to post a bond or other security.

J. Separability. If any part of this Agreement is found invalid, the rest of the Agreement will remain valid and enforceable.

This Section 6 of the Agreement will continue to apply after the Agreement ends.

This Agreement shall be deemed effective as of the date you first use the VRS. By using the VRS, you expressly warrant and represent that you have the authority and right to enter into this Agreement.

(Sorenson's File # K-VRS-Individuals--Standalone-04-15-2005)

Exhibit 2

Unknown

From: Jon Hodson [jonhodson@cox.net]
Sent: Friday, July 26, 2002 8:50 AM
To: 'Patrick Nola'
Subject: RE: Our conversation

That's fine. I will test VP100 and make a report to you. However, based on my experiences, we should not abandon Envision entirely because we need to retain PC market where the deaf is actively involved in communications. Many users prefer laptops, desktop computers for their main of communication. I.E., I will need to buy a TV for my office to use VP100. I recommend that we continue using Envision for a while. We can distribute Envision for free and still accumulate minute revenues anyway.

Questions: Does VP100 use Ethernet line or cable line? Can it work with a router?

Jon

-----Original Message-----

From: Patrick Nola [mailto:pnola@sorensontech.com]
Sent: Thursday, July 25, 2002 5:30 PM
To: Jon Hodson
Subject: FW: Our conversation

One other thing, you were going to evaluate the VP100s, Scott Ostermiller is sending you two on Monday, and create a product requirement report on how/what features would be required for the deaf market. Hopefully we can start with the unit as is, since that is the smart way to test the market for viability prior to consuming limited development resources.

Pat

-----Original Message-----

From: Patrick Nola
Sent: Thursday, July 25, 2002 5:19 PM
To: Jon Hodson - Internet
Subject: RE: Our conversation

Slight changes - we would be the VRS since 75% of calls are non-hearing to non-hearing which does not require interpreters. We would partner with deaf interpreter companies and enter into a revenue share with them (we get the funds direct from NECA).

They would not have to start with Envision, they can start with VP100 pending the timing for actual deployment. Jon, realistically they are still trying to get money, build infrastructure, ramp up staff all by next month - that will not happen.

By October we can build several hundred VP100 units which is more than there business plan calls for. We need to see when they can really start before determining if we supply Envision. The best way is to supply VP100 so that we do not get in a position where we are extending Envision to compete with a free Microsoft player.

Pat

-----Original Message-----

From: Jon Hodson [mailto:jonhodson@cox.net]
Sent: Thursday, July 25, 2002 4:41 PM
To: 'Patrick Nola'
Subject: Our conversation

Pat:

To recap our conversation, I will list the items we discussed recently:

1. Sorenson considered having an exchange carrier license
2. Sorenson will determine for partnering with VRS companies for appliance and service
3. Revise our proposal to Hands On
4. Provide Envision to Hands On to start VRS (Beta in August, expected full operation in Sept)
5. Find an expert on deaf market and telecommunication with two names

2/3/2005

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ATTORNEYS' EYES ONLY

JH00767

6. Gather data from NECA on dollar amount and total minutes reimbursed to CSD and other companies if any
7. Texas PUC is mailing me monthly statistic on total minutes made in Texas

Let me know if I left out any issues or any questions.

Thanks,
Jon

HIGHLY CONFIDENTIAL
ATTORNEYS' EYES ONLY

2/3/2005

HIGHLY CONFIDENTIAL
ATTORNEYS' EYES ONLY

JH00768

Unknown

From: Jon Hodson [jonhodson@cox.net]
Sent: Monday, September 16, 2002 5:26 PM
To: 'Patrick Nola'; 'Ed Armstrong'; 'Jon Hodson'; 'Scot Brooksby'; 'Scott Ostermiller'
Cc: 'diana@sorenson.com'
Subject: RE: TTY Feature Set

Pat:

Yes you were fast!

Missing TTY item: TTY has built in answering machine. Netmeeting has chat message saved and printed with unlimited buffer. Envision does not have those and has a limited buffer (4K).

For VP100:

1. Hearing names with VRS direct calling and to provide phone numbers to VRS reps
2. Sub-directory for grouping phone numbers
3. Video 'answering machine'
4. ILS services (deafonline, etc)
5. Call Block list
6. Digital zoom

Jon

—Original Message—

From: Patrick Nola [mailto:pnola@sorensontech.com]
Sent: Monday, September 16, 2002 3:47 PM
To: Ed Armstrong; Jon Hodson; Scot Brooksby; Scott Ostermiller
Cc: diana@sorenson.com
Subject: TTY Feature Set

Here is a quick (but relatively thorough) first pass at features used in TTY systems that can be evaluated for use with video based systems - both PC and Appliance.

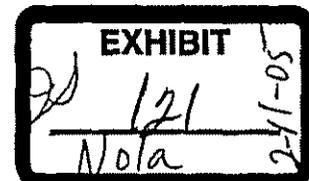
Please review, make edits as necessary for group and resend to everyone as needed.

Jon - see how fast I turn that puppy around from when you sent it, I need you to send me your list by tomorrow on your video phone feedback unless you think this document encapsulates your feedback for the deaf market.

ScotBB - don't freak out(yet), I am not committing this features to a VP100 or Envision product plan, its just so we are aware of the current environment.

Pat

2/3/2005



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ATTORNEYS' EYES ONLY

JH00101

Exhibit 3

Subj: RE: Update and status
Date: 7/30/02 9:42:12 AM Pacific Daylight Time
From: pnola@sorensontech.com
To: FJPedersen@aol.com
CC: earmstrong@sorenson.com, jim@sorenson.com, sostermiller@sorensontech.com
File: EvaluationAgreementS-Tech-2001-2.doc (44032 bytes) DL Time (45333 bps): < 1 minute
Sent from the Internet ([Details](#))

Hi Frank:

I received your voicemail. Here is where we stand.

1. We are still interested in the market but we need to do some investigation to determine our level of effort, determine the products/services we can provide and evaluate this market opportunity in general. The good news here is that if we determine that this market area is of interest, then we can provide the solution needed to make you successful. We need another couple weeks of investigation on this since we would commit to a market opportunity rather than just a point technology.

2. After our market investigation, we can have a meeting to demonstrate (as you asked) how our solution suite would work. If you are interested, I have attached an evaluation agreement for our video phone that you can try. We would like your feedback on how you think this appliance would work for your community (sign it and FAX to Scott Ostermiller : FAX 435-792-1101)

3. I will talk with Ed to determine where/what level our billing and accounting software is at and he can discuss with your team.

Ed - They have developed their own accounting/tracking system but if our solution is robust enough - they may elect to use ours.

Pat

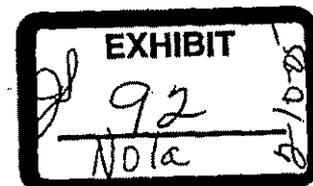
-----Original Message-----

From: FJPedersen@aol.com [<mailto:FJPedersen@aol.com>]

Sent: Monday, July 29, 2002 5:29 PM

To: pnola@sorensontech.com

Subject: Update and status



Pat,

Just left you a vm (long winded). Don't know if it made it, but here is my email address.

Wednesday, July 31, 2002 America Online: FJPedersen

HOV 00159

Let me know if you need anything from me.
Frank
1.530.308.0058

Ronald Obroy

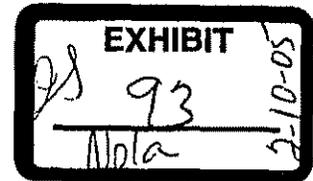
From: Patrick Nola [pnola@sorensontech.com]
Sent: Thursday, August 01, 2002 8:23 AM
To: FJPedersen@aol.com; Ronald Obroy
Subject: RE: Telecom w/ Pat Nola

Good summary

Pat

-----Original Message-----

From: FJPedersen@aol.com [mailto:FJPedersen@aol.com]
Sent: Wednesday, July 31, 2002 6:44 PM
To: robroy@handsonsvs.com
Cc: pnola@sorensontech.com; FJPedersen@aol.com
Subject: Telecom w/ Pat Nola



Ron,

Just got off the phone with Pat and wanted to get my notes to you, with all that's going on, will be onto 10 other things before the end of the day.

The Product Evaluation Agreement (PEA) is for the "white boxes" we discussed in our mtg. of the 19th. I assured Pat we would sign the PEA and fax and mail hard copy tomorrow.

Part of Pat's market research would be to find out how many of our user group would be more interested in using the "white box" technology (used w/cable or DSL) verses those with a PC.

I did mention that our VRS user group was comprised of a diverse group (senior citizens to children) and we would collect the data and report back to him. Having more than 2 units would help. I see this inexpensive (\$300) and unsophisticated "white box" technology being a real hit with our senior citizens and those who are on a budget and already have cable modems or DSL. For the more sophisticated users, PC's would probably be the preferred method. The real advantage with the "white boxes" or Video Phone Appliances is we don't have all the problems we have been dealing with our user group, i.e., computer speed, bus, camera, OS all being compatible and robust enough to support video. This devise just plugs in and away we go. I wonder if we can do our traffic marking with the "white boxes". Pat? We talked about our desire to compare the MS NetMeeting product against Envision and the need for source code to integrate to our billing, actg., etc.

Pat's recommendation is that we use a newer generation of their s/w like Flash or V-Cast ?. They can support this later version s/w much easier. The Envision code is approx. 4 yrs. old and not documented all that well. He thinks it was written in C. I asked about the GUI for the other products (we know what Envision can do) and he said we would have to get with Ed's group to see if it would do what we want it to do.

I asked him if they have considered our proposal to just unload the Envision s/w to us with no strings (support) attached and he said that is not entirely out of the question but that we should first evaluate their newer generation s/w to see if it

5/12/2003

HOV 00162

wouldn't do what we need, better and with support that Sorenson could provide. The Envision platform is only PC compatible.

As I see it, there are two things we need to evaluate:

- 1) Better understand our needs to see what Sorenson s/w works best with our platform. (Envision, Flash, V-Cast?)
- 2) Determine if Sorenson wants to be a vendor, Technology Partner, Strategic Investor or combination thereof.

The two weeks Pat mentioned in his email yesterday, is required to sort this all out. Pat also mentioned they are also looking for market research to try and size up the market for their "white box" Technology.

We discussed getting together soon with our engineers to take this to the next level.

Pat, did I miss anything?

Frank

SORENSEN TECHNOLOGIES, INC.
PRODUCT EVALUATION AGREEMENT

This **PRODUCT EVALUATION AGREEMENT** (the "*Agreement*") is entered into and is effective as of the date of the last signature below by and between Sorenson Technologies, Inc., a Utah corporation, with offices at 1011 West 400 North, Logan, Utah 84321 USA ("*Sorenson*") and Hands On Sign Language Services, Inc. with an address at 1103 High St. Auburn, CA ("*Evaluator*").
STE# 200 95603

1. PURPOSE OF AGREEMENT.

1.1 The purpose of this Agreement is to enable Evaluator to evaluate the following product of Sorenson: video communication products, including software and reference designs (which shall, for purposes of this Agreement, be referred to as the "*Sorenson Product*").

1.2 This evaluation shall be conducted strictly in accordance with the terms and conditions of this Agreement.

2. EVALUATION PROCEDURE AND RESTRICTIONS.

2.1 Time.

2.1.1 Subject to the terms and conditions of this Agreement, Evaluator may use, examine, and undertake an evaluation of the Sorenson Product for a period of thirty (30) calendar days from the date Evaluator signs this Agreement (the "*Evaluation Period*"), unless Evaluator breaches this Agreement and, in such event, this Agreement shall immediately terminate without further notice.

2.1.2 The Evaluation Period may only be extended by a written agreement signed by authorized representatives of Sorenson and Evaluator.

2.2 Procedure.

2.2.1 Evaluator shall promptly begin using the Sorenson Product. For operating instructions, Evaluator should refer to the supporting documentation or contact the Sorenson employee who has authorized Evaluator to conduct the evaluation.

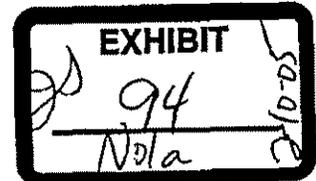
2.2.2 Evaluator shall immediately report all problems and defects it becomes aware of while evaluating the Sorenson Product. Upon Sorenson's request, Evaluator shall also provide Sorenson with updates regarding the status of the evaluation.

2.3 Restrictions. At all times during the evaluation, Evaluator expressly acknowledges and agrees that the following terms and conditions shall apply:

2.3.1 Confidentiality, Restricted Use and Disclosure.

A. Evaluator expressly acknowledges, agrees, and warrants as follows:

1) That the Sorenson Products, all code, including but not limited to Source Code, and all information applicable to the Sorenson Products and code which may be provided to Evaluator hereunder constitutes the valuable and proprietary information and trade secrets of Sorenson. For ease of reference and for the purposes of this Agreement, Evaluator acknowledges and agrees that the Sorenson Products, all code, including but not limited to



Source Code, and all information disclosed by Sorenson to Evaluator under this Agreement shall be referred to as "*Sorenson Confidential Information*;"

2) That Evaluator is obligated to exercise a reasonable degree of care to maintain the confidentiality of Sorenson Confidential Information provided hereunder, and that Evaluator is authorized to use and disclose Sorenson Confidential Information solely for the purpose of and in connection with performing the evaluation;

3) That, although Sorenson is granting Evaluator the right to evaluate the Sorenson Products and is disclosing Sorenson Confidential Information hereunder, that Evaluator is not granted any right or license under any trade secrets, patents, copyrights, mask work rights, trademarks, and service marks of Sorenson and that Evaluator is expressly prohibited from asserting or filing registrations and/or applications for intellectual property rights pertaining to Sorenson Confidential Information in any country, nation, territory, province, and jurisdiction throughout the world;

4) That Evaluator is not authorized to alter or remove from Sorenson's Confidential Information any proprietary rights or licensing legend, copyright notice, trademark, or trade secret legend, or any other mark identifying the information or material as Confidential Information of Sorenson;

5) That Evaluator is expressly prohibited from modifying, reverse engineering, decompiling, and disassembling any software or any products, including but not limited to source code, of Sorenson provided hereunder, whether such software and/or product is in the concept, prototype, and/or beta testing stage, and/or is in manufactured and/or finished form;

6) That Evaluator shall not, at any time without the express written permission of Sorenson, have the right to disclose Sorenson Confidential Information to third parties, allow any third parties to use the Sorenson Confidential Information and Sorenson Products provided hereunder, or distribute the Sorenson Confidential Information or Sorenson Products hereunder, unless such third parties are Evaluator's employees or independent contractors (which shall, for purposes of this Agreement, be referred to as "*Evaluator Agents*") and then only if such Evaluator Agents have a need to know or use the Confidential Information or Sorenson Products in order to perform the evaluation contemplated by this Agreement and Evaluator has executed appropriate written agreements with such Evaluator Agents that are sufficient to enable them to comply with, and be bound by, all of the terms and conditions of this Agreement;

Further, if the Sorenson Product consists of or includes software, Evaluator may make one copy of such software if it is made and used for emergency back-up purposes only and if the copy includes the SORENSON™ TECHNOLOGIES, INC. copyright, trademark, and proprietary rights notices on the copy, and Evaluator is prohibited from allowing third parties to copy all or any part of such software unless such third party is an Evaluator Agent and then only if such Evaluator Agent has a need to make one copy of such software for emergency back-up purposes in order to perform the evaluation contemplated by this Agreement and Evaluator has executed appropriate written agreements with such Evaluator Agents that are sufficient to enable them to comply with, and be bound by, all of the terms and conditions of this Agreement;

Upon request, Evaluator shall promptly furnish Sorenson with copies of all Evaluator Agent agreements contemplated by this Agreement;

7) That all Sorenson Confidential Information, and all copies thereof, including copies made by Evaluator (whether or not made in machine-readable or printed form, and including all supporting documentation, translations, compilations, partial copies within modified versions, updates and any modifications made by Sorenson which may be specific to Evaluator's hardware or operating environment, if any) are and shall, at all times, remain the sole and exclusive property of Sorenson and/or its licensors; and

8) That, within five business days of Sorenson's request, or the expiration or termination of this Agreement or the Evaluation Period, which is applicable, Evaluator shall promptly return to Sorenson all Sorenson Products and Sorenson Confidential Information in Evaluator's and Evaluator's Agents possession or control. Upon Sorenson's request, Evaluator shall submit a signed, written statement to Sorenson certifying that Evaluator has complied with the terms and conditions of this Agreement.

B. After the expiration or termination of this Agreement or the expiration of the Evaluation Period, whichever occurs first, Evaluator and Evaluator's Agents shall have no right to use or disclose the Sorenson Products and all Sorenson Confidential Information for any purpose without obtaining an express license or other written authorization in advance from Sorenson. Evaluator's and Evaluator's Agents' obligations to not use and disclose the Sorenson Products and all Sorenson Confidential Information shall survive the expiration or termination of the evaluation for a period of five (5) years. Evaluator acknowledges and agrees that its limited right to evaluate Sorenson's Confidential Information shall immediately expire at the end of the Evaluation Period, if this Agreement is not terminated earlier and then, in that event, Evaluator's right to evaluate such information shall immediately terminate. Evaluator therefore agrees to return any and all Confidential Information of Sorenson that is in a tangible form, including all originals, copies, reproductions, and summaries thereof, to Sorenson's within five (5) calendar days of the date this Agreement expires or is terminated, whichever occurs first, or upon the Sorenson's request, and to also completely erase and destroy all copies of all portions of all software comprising the Confidential Information in its possession and/or under its responsibility or control which may have been loaded onto the computers of the Evaluator and/or its Employees and Agents.

2.3.2 Liabilities and Disclaimers.

A. The Sorenson Products and Sorenson Confidential Information provided hereunder is provided on an "AS IS" basis which means that Evaluator's and Evaluator's Agents' use of all Sorenson Products and Sorenson Confidential Information is entirely at their own risk.

B. NO WARRANTIES/DISCLAIMERS.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE FOLLOWING PROVISIONS SHALL APPLY TO THIS AGREEMENT:

1) SORENSON AND/OR ITS LICENSORS, SUPPLIERS, DEALERS, OR DISTRIBUTORS MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING ANY SORENSON PRODUCTS AND SORENSON CONFIDENTIAL INFORMATION PROVIDED HEREUNDER, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OR REPRESENTATION THAT ANY SORENSON PRODUCT OR SORENSON CONFIDENTIAL INFORMATION IS OR SHALL BE FREE FROM CLAIMS BY NONPARTIES FOR INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS, OR THAT ALL OR ANY PART OF ANY SORENSON PRODUCT AND SORENSON CONFIDENTIAL INFORMATION IS OR SHALL BE COMPLETE AND FREE FROM DEFECTS.

2) SORENSON HEREBY DISCLAIMS AND EXCLUDES ALL EXPRESS, IMPLIED, AND STATUTORY WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF GOOD TITLE, PERFORMANCE, QUIET ENJOYMENT, WARRANTIES AGAINST INFRINGEMENT, AND THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND SORENSON AND/OR ITS LICENSORS, SUPPLIERS, DEALERS, OR DISTRIBUTORS DO NOT MAKE ANY PROMISES ABOUT THE PERFORMANCE, ACCURACY, OR RELIABILITY OF ANY SORENSON PRODUCT OR SORENSON CONFIDENTIAL INFORMATION.

3) IN NO EVENT, SHALL SORENSON AND/OR ITS LICENSOR'S, SUPPLIERS, DEALERS, OR DISTRIBUTORS HAVE ANY OBLIGATION OR LIABILITY FOR ANY DAMAGES

ARISING OUT OF THIS AGREEMENT, EVEN IF SORENSON AND/OR IT'S LICENSOR'S, SUPPLIERS, DEALERS, OR DISTRIBUTORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND/OR SUCH DAMAGES ARE FORESEEABLE, INCLUDING BUT NOT LIMITED TO:

- A) ANY ACTUAL, DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES;
- B) ANY DAMAGES FOR LOSS OF REVENUE AND/OR PROFITS;
- C) ANY DAMAGES FOR LOST, DAMAGED, AND/OR CORRUPTED DATA;
- D) ANY DAMAGES FOR BUSINESS INTERRUPTION; AND
- E) ANY AND ALL OTHER COMMERCIAL, ECONOMIC, AND/OR PECUNIARY LOSS.

3. MISCELLANEOUS PROVISIONS.

3.1 Sorenson and Evaluator, on behalf of Evaluator and Evaluator's Agents, agree that this Agreement shall be binding upon the parties and their successors and assigns. Although Sorenson may assign this Agreement, Evaluator may not assign this Agreement without Sorenson's written consent.

3.2 The titles of the provisions contained in this Agreement are for convenience of reference only and are not to be considered in construing this Agreement. If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent be found invalid or unenforceable this Agreement shall be deemed to be amended only to the extent necessary to render it valid and enforceable. The failure of Sorenson to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

3.3 Evaluator and Evaluator's Agents are acting as an independent contractor and not as an employee, agent, partner, or joint venturer of Sorenson for any purpose. Evaluator and Evaluator's Agents shall have no right, power, or authority to act or to create any obligation, express or implied, on behalf of Sorenson.

3.4 This Agreement shall be interpreted and construed in the English Language and in accordance with the laws of the State of Utah, USA, without regard to principles of conflicts of law of any jurisdiction, nation, country, or province. Any action arising out of or pertaining to this Agreement shall be initiated and maintained in the state or federal courts of the State of Utah, USA, the parties hereby expressly submit to the personal jurisdiction of the state and federal courts located in Utah, USA, and the parties further agree that any award of relief to the prevailing party in such actions shall include recovery of such prevailing party's court costs and expenses, including reasonable attorneys' fees and expert witness fees. The parties further acknowledge and agree that monetary damages shall not be a sufficient remedy for any breach, or threatened breach, of this Agreement by a party hereto. Therefore, the parties stipulate that in the event a party breaches, or reasonably threatens to breach, this Agreement, the non-breaching party shall be entitled, without waiving any other rights or remedies in law or in equity, to such injunctive and/or equitable relief without having to show or prove irreparable harm (without bond or other security) as may be deemed proper by a court of competent jurisdiction, and by the grant of other additional relief as the court deems just. Consistent with this Section 3.4, each party hereto expressly consents to service of process being effected upon it by either (a) pre-paid overnight carrier, or (b) registered mail, return receipt requested, postage prepaid, and sent to its address set forth in this Agreement, or such other address as a party may designate to receive service of process or notifications.

3.5 This Agreement constitutes the entire understanding and contract between the parties with regard to the evaluation of Sorenson Product and supersedes any and all previous or contemporaneous contracts, correspondence, and documentation between the parties, whether oral or written, with regard to the specific subject matter herein. This Agreement may not be modified or amended verbally, but only by a written agreement that is signed by an authorized representative of Sorenson.

3.6 Sections 2.3.1 A, 2.3.2; and 3 shall expressly survive any termination or expiration of this Agreement for an unlimited period of time; Section 2.3.1.B shall survive in accordance with its terms.

IN AGREEMENT, the parties sign this Agreement, effective as of the date the parties sign below or, if signed on different dates, the later of such dates (the "Effective Date").

"SOENSON"
Sorenson Technologies Inc.
By: Pat Nola
(Please Print)
Title: VP Marketing Operations
(Please Print)
Date Signed: 8-3-03
(Please Print)
Signature: PATRICK NOLA
K-Eval-Product-S-Tech-2001-1 doc/9-21-2001

"EVALUATOR"
Hands On Sign Language Services Inc.
By: Ronald E Obroy
(Please Print)
Title: President
(Please Print)
Date Signed: 8-2-02
(Please Print)
Signature: [Signature]

Ronald Obray

From: Scott Ostermiller [sostermiller@sorensontech.com]
Sent: Tuesday, August 20, 2002 2:38 PM
To: Ronald Obray
Cc: Jon Hodson - Internet
Subject: RE: Scotts visit to Hands On

Hi Ron,

I was just having a conversation with Jon Hodson about this signaling device. Could you please send us some product specs on this device? Who makes it? How does it connect and function exactly?

Pat is out of the office until next Thursday. He called me and said that he had received a voice mail from you. Is there anything I can help you with? Please feel free to ask me any questions you might have.

Thanks

Scott

-----Original Message-----

From: Ronald Obray [mailto:robray@handsonsvs.com]
Sent: Monday, August 19, 2002 3:08 PM
To: Scott Ostermiller
Cc: pnola@sorensontech.com
Subject: RE: Scotts visit to Hands On

Hey Scott,

Good news, the light signaling device works fine so that is awesome and takes away a huge problem for us. Good job !!!

-----Original Message-----

From: Scott Ostermiller [mailto:sostermiller@sorensontech.com]
Sent: Friday, August 16, 2002 12:35 PM
To: Ronald Obray
Subject: RE: Scotts visit to Hands On

Hi Ron,

Thanks for the email. I have been thinking about the NetMeeting connections and there is something I would like you to check as you do these NetMeeting calls. After establishing the connection, click on View/Connection Details. I would be interested to know if you configured at QCIF or CIF. If it was CIF (the videophone's default) then that would explain why he only sent 10fps. QCIF is 176x144 and CIF is obviously twice the size (352x288) and therefore takes more processing power. That may have been all his webcam was capable of in CIF sized video.

So take note of the capture size and data rate that you receive from them. If the data rate seems lower than it should be (like our call yesterday), then try it from NM to EnVision and see if you are able to get more throughput while using the same connections. Just some thoughts.

Could you please forward this on to Damos and any other testers that it might apply to?

Thanks again for the great meeting yesterday. I think it was very useful.

Scott

-----Original Message-----

From: Ronald Obray [mailto:robray@handsonsvs.com]

Sent: Friday, August 16, 2002 12:59 AM
To: sosterMiller@sorensontech.com
Cc: pnola@sorensontech.com
Subject: Scotts visit to Hands On

I would like to take this opportunity to thank you Scott, for a very exciting and informative demo today.

We found the demo unit to be very exciting for us as we were thinking of all the possibilities all afternoon after Scott left our office. WOW!

I will be typing up a list of all our questions and suggestions that we came up with today and will get those out to you next week. I know there will be many more questions and ideas that come up as we continue to demo the units.

I did have a nice conversation with an employee of the CPUC here in California this afternoon. He works in the dept. of rate payer services. That is the dept. that is responsible for the equipment distribution program here in California. They currently give out TTY and other assistive devices that give people with disabilities the ability to communicate with others.

He seemed very interested in seeing what the capabilities of this unit is. I think he will be very impressed with a demo, especially since your unit is the best thing I have seen for video or VCO(voice carry over) services. I can explain more about what that is later, but it is one of the required features of relay.

Is it possible to show him the demo at this time??

I will be talking with my network engineer consultant to see if your units could be used in our call center instead of the PC based work stations that we have been planning on. I need to find out if we can intergrate our VRS platform with your unit-maybe through a API script?? I will try to see if we can have a overlapping application that would allow us to use our proprietary web based interface that we have already developed. If we put a data server between the Gatekeeper and your end unit boxes in the call center network and ran our application when we are first connected to our users and then before the third party is connected it would put our application on the backend and your end unit would become the front end. My thinking is that I would have our database to record all the info I need to bill NECA and at the same time we would have the luxury of your fine unit for the important part, the communication!

I don't know how this might work Scott, but it would seem to me that we could write something to overlap the two applications?? I will check with Damos and see what he says but any feedback you have would be helpful. That means we would shelf the PC worksations all together and use the TV and your box to do the relay calls. Sometimes I know I dream a lot but this would really give us the quality I am looking for especially if we mark the end points on the public side to make the travel less painful to our servers

I will also be meeting with a few of my parents friends that are senior citizens in their 70's and will see what their reaction is to this more simplified video phone.

I will be in contact with you next week to send you that email and give you an update on our employees feedback as they play with your boxes. I did make that call to Atlanta and my friend was really excited by the quality of the boxes. He has been in the relay business for 10 years and was an ex employee of CSD. We were able to send 28 to 30 FPS, but we were receiving only 10FPS. It was still better than anything I have tested and the communication was not bad at all on our end even though it was 10FPS. He said our picture to him was crystal clear.

Take care and I will be out of town on business till Monday.

Thanks again for the great visit
Ronald E. O Bray
President
Hands On Sign language Services Inc.

From: Patrick Nola
Sent: Friday, August 16, 2002 2:43 PM
To: Jon Hodson
Cc: Scott Ostermiller
Subject: FW: Scotts visit to Hands On
Attach: Header.dat

I had ScottO go out to install, demo our video phone. They are keeping 2 units for an evaluation period and as you can see below they were very excited by it.

PS - please keep all work we are doing with other agencies confidential, especially with Hands On.

Pat

-----Original Message-----

From: Ronald O Bray [mailto:robay@handsonsvs.com]
Sent: Friday, August 16, 2002 12:59 AM
To: sosterMiller@sorensontech.com
Cc: pnola@sorensontech.com
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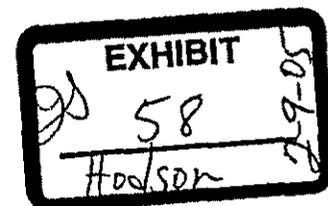
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Thanks again for the great visit

Ronald E. O Bray

resident

Hands On Sign language Services Inc.