

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In re Petition of)
)
Truphone, Inc., SmartCall, LLC,)
iSmart Mobile, LLC and)
Truphone Limited)
)
To Modify Declaratory Ruling)
ISP-PDR-20120913-00005)
)
To: The International Bureau)

PETITION TO MODIFY DECLARATORY RULING ISP-PDR-20120913-00005

Truphone, Inc. (“TI”), SmartCall, LLC (“SmartCall”), iSmart Mobile, LLC and Truphone Limited (“Truphone”) (collectively, “Petitioners”), through their undersigned counsel and pursuant to 47 C.F.R. §1.994(e), hereby respectfully request that the FCC modify Declaratory Ruling ISP-PDR-20120913-00005, 27 FCC Rcd. 16050, 16051 (Int’l Bur. 2012), (“Declaratory Ruling”) to permit the potential additional investment from an existing foreign shareholder in Truphone to the extent such modification may be required in light of the proposed funding transaction described below.

DECLARATORY RULING AND SUBSEQUENT FUNDING TRANSACTION

The Declaratory Ruling found that it would not serve the public interest to prohibit the indirect ownership of TI’s wholly-owned subsidiaries SmartCall and iSmart in excess of the 25 percent benchmark set forth in 47 U.S.C. §310(b)(4). The Declaratory Ruling also expressly authorized SmartCall and iSmart to accept an additional aggregate 25 percent indirect equity and/or voting interests from other foreign investors without prior FCC approval. However,

SmartCall and iSmart must obtain FCC approval before another foreign investor acquires individually an indirect equity and/or voting interest exceeding 25 percent. *See* Declaratory Ruling, 27 FCC Rcd. at 16051.

Minden Worldwide Limited (“Minden”), a British Virgin Islands-registered company, acquired a 23.33 percent ownership interest in Truphone in a funding transaction that was completed on February 1, 2013. Although the Declaratory Ruling allowed SmartCall and iSmart to have an additional aggregate 25 percent indirect foreign investment without notice to, or approval by, the FCC, TI notified the FCC of the Minden transaction by letter dated February 12, 2013. The February 1, 2013 transaction also diluted the ownership interest of Vollin Holdings Limited (“Vollin”) in Truphone, and indirectly in TI, SmartCall and iSmart, to 61.69 percent. The FCC had reviewed Vollin’s ownership interests in the Petitioners in the Declaratory Ruling and in a previous ruling. *See* ISP-PDR-20111020-00011, 27 FCC Rcd. 10884, 10885 (Int’l. Bur. 2012).

In previous petitions for declaratory ruling and transfer of control filings, the Petitioners have informed the FCC of the need for additional funding to support their continued operations. *See* ISP-PDR-20111020-00011; Transfer of Control Applications 0004928994; ITC-T/C-20111107-00349. iSmart provides wireless services to customers in Montana. Further, Truphone and its U.S. and global subsidiaries develop and market innovative communications technologies and services on a global mobile communications platform. Truphone therefore has a continuing need to raise funding to support these operations.

Truphone will enter into a funding transaction that is scheduled to close in early January 2014. Although the terms of the January 2014 funding transaction are still subject to negotiation at this time, Truphone expects that the funding transaction will take the form of a

rights offering to all of Truphone's shareholders, including the two largest shareholders, Vollin and Minden.¹ Further, at this time, Truphone expects that Vollin will contribute all or a significant majority of the funding in this round. In such case, Vollin's ownership interest in Truphone will increase from its current level of 61.69 percent to approximately 72 percent.² Therefore, although Vollin's ownership interest in Truphone would increase through the rights offering, Vollin's ownership interest would not exceed the 82.66 percent interest authorized by the Declaratory Ruling.

If Vollin does not contribute all of the funding in the upcoming January 2014 round, Minden possibly may contribute funding, and thereby increase its current 23.33 percent interest in Truphone. In order to accommodate Minden's potential participation in the January 2014 funding round and any resulting increase in Minden's current direct and indirect ownership interests in Truphone, TI, SmartCall and iSmart, the Petitioners respectfully request authorization for Minden to increase its ownership interest beyond the 25 percent level for aggregate additional foreign investment permitted by the Declaratory Ruling.

THIS PETITION IS ELIGIBLE FOR STREAMLINED PROCESSING

The FCC should apply streamlined processing procedures for this request for authorization for Minden's direct and indirect ownership interests in the Petitioners potentially to exceed 25 percent. The FCC traditionally has applied such streamlined procedures to petitions seeking permission to increase a licensee's level of non-controlling indirect foreign ownership when authorization to exceed the Section 310(b)(4) 25 percent threshold already has

¹ The other shareholders of Truphone hold *de minimis* interests in Truphone. Only Vollin and Minden hold ownership interests in Truphone exceeding five percent.

² Truphone has one class of unrestricted ordinary shares. Thus, a shareholder's voting interest in Truphone has a direct correlation to the shareholder's equity interest.

been granted. As noted above, the Declaratory Ruling permitted indirect foreign ownership of Truphone in excess of the 25 percent benchmark. Further, the interest to be acquired potentially by Minden in the January 2014 funding transaction would be a non-controlling interest in Truphone. The funding transaction does not involve the assignment or transfer of control of the broadband PCS licenses held by iSmart. *See Foreign Participation in the U.S. Telecommunications Market*, 12 FCC Rcd. 23891 (1997), at ¶323. The FCC recently reiterated that streamlined processing procedures will continue to apply to this class of petition under Section 310(b)(4) of the Communications Act. *See Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees Under Section 310(b)(4) of the Communications Act of 1934, as Amended*, 28 FCC Rcd. 5741 (2013), at ¶132.

PUBLIC INTEREST SHOWING

The January 2014 funding round is part of Truphone's continuing effort to secure sufficient funding to support the Petitioners' operations both in the U.S. and internationally. Continued funding will allow the Petitioners to serve customers in the United States and to develop and market innovative communications technologies and services on a global mobile communications platform. The FCC has recognized that "foreign investment has been and will continue to be an important source of financing for U.S. telecommunications companies, fostering technical innovation, economic growth and job creation." *See, e.g., Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees Under Section 310(b)(4) of the Communications Act, as Amended*, 28 FCC Rcd. 5741 (2013), at ¶3. The January 2014 funding round will support both TT's and iSmart's operations in the U.S. and the Petitioners' operations on a global basis. The Petitioners therefore respectfully submit that the January 2014 funding round will serve the public interest.

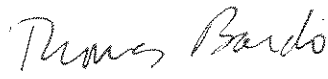
CONCLUSION

At this time, the terms of the January 2014 funding round are under consideration and not yet finalized. Truphone believes that Vollin most likely will acquire all or a significant majority of the ownership interests in Truphone available in the January 2014 funding round. In such case, Vollin's direct and indirect ownership interests in the Petitioners would increase, but most likely to a level well below the 82.66 percent authorized in the Declaratory Ruling. However, in order to accommodate the possibility that Minden may acquire an additional ownership interest in Truphone that would increase its total ownership interest in Truphone above the 25 percent benchmark permitted in the Declaratory Ruling, the Petitioners are submitting this filing. The Petitioners respectfully request that the FCC modify the Declaratory Ruling to permit such potential additional indirect foreign investment in Truphone, SmartCall and iSmart.

November 27, 2013.

Respectfully submitted,

Truphone, Inc., SmartCall, LLC,
iSmart Mobile, LLC, and Truphone Limited

By: 

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Their Attorneys

Information Required Pursuant to 47 C.F.R. §1.991

1.991(a)

Truphone Limited

FRN: 0021247044
Mailing Address: 4 Royal Mint Court
London EC3N 4HJ
United Kingdom

Place of Organization: England and Wales
Telephone number: +44 7408-870-000
Type of organization: Private limited company
Certifying officer: Gregory Mappedoram, Company Secretary

Truphone, Inc.

FRN: 0018261735
Mailing Address: 4819 Emperor Blvd., Suite 400
Durham, North Carolina 27703

Place of organization: Delaware
Telephone number: (816) 399-4400
Type of organization: Corporation
Certifying officer: Gregory Mappedoram, Vice President, Legal

SmartCall, LLC

FRN: N/A
Mailing address: 23500 Mercantile Road, Suite B
Beachwood, Ohio 44122

Place of organization: Delaware
Telephone number: (216) 233-5154
Type of organization: Limited liability company
Certifying officer: Gregory Mappedoram, Company Secretary.

iSmart Mobile, LLC

FRN: 0019107051
Mailing address: 23500 Mercantile Road
Beachwood, Ohio 44122

Place of organization: Delaware
Telephone number: (216) 233-5154
Type of organization: Limited liability company
Certifying officer: Gregory Mappedoram, Company Secretary

1.991(b)

Thomas F. Bardo, Esq.

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1.991(c)

iSmart Mobile, LLC -- Broadband PCS service

1.991(d)

Applicants seek a declaratory ruling under §1.990(a)(1) to the extent necessary to accommodate the funding transaction described in this petition.

1.991(e)(1)

Truphone Limited holds 100 percent of the equity/voting interests in Truphone, Inc.

1.991(e)(4)(i)

Truphone Limited holds 100 percent of the equity/voting interests in Truphone, Inc.

1.991(e)(4)(iv)

Truphone, Inc. holds all of the membership interests in SmartCall, LLC. SmartCall, LLC holds all of the membership interests in iSmart Mobile, LLC.

1.991(f)(1)

The following entities and individuals hold indirect equity/voting interests in Truphone, Inc. of 10 percent or more: Truphone Limited, Vollin Holdings Limited, Minden Worldwide Limited, Whiteclif Enterprises Limited, Alexander Abramov and Alexander Frolov. The ownership interests of Vollin Holdings Limited, Whiteclif Enterprises Limited and Messrs. Abramov and Frolov are a matter of record in previous declaratory ruling proceedings ISP-PDR-20120913-00005 and ISP-PDR-20111020-00011. The ownership interest of Vollin Holdings Limited in Truphone Limited has been diluted to 61.69 percent.

1.991(g)

Minden Worldwide Limited holds a 23.33 percent equity/voting interest in Truphone Limited.

Place of organization: British Virgin Islands

Type of business organization: Limited company
Principal business: Investment holding company

1.991(h)(i)

Vollin Holdings Limited and Minden Worldwide Limited together hold 85.02 percent of the voting/equity interests in Truphone Limited. No other shareholder holds a voting/equity interest of 5 percent or more in Truphone Limited. The methods used for determining ownership interests for purposes of this petition are consistent with those set forth in 47 C.F.R. §1.992. The circumstances prompting the filing of this petition and a public interest statement are set forth above at pages 1-4.

1.991(h)(2)

See attached exhibit depicting ownership and control structure of the applicants.

1.991(i)

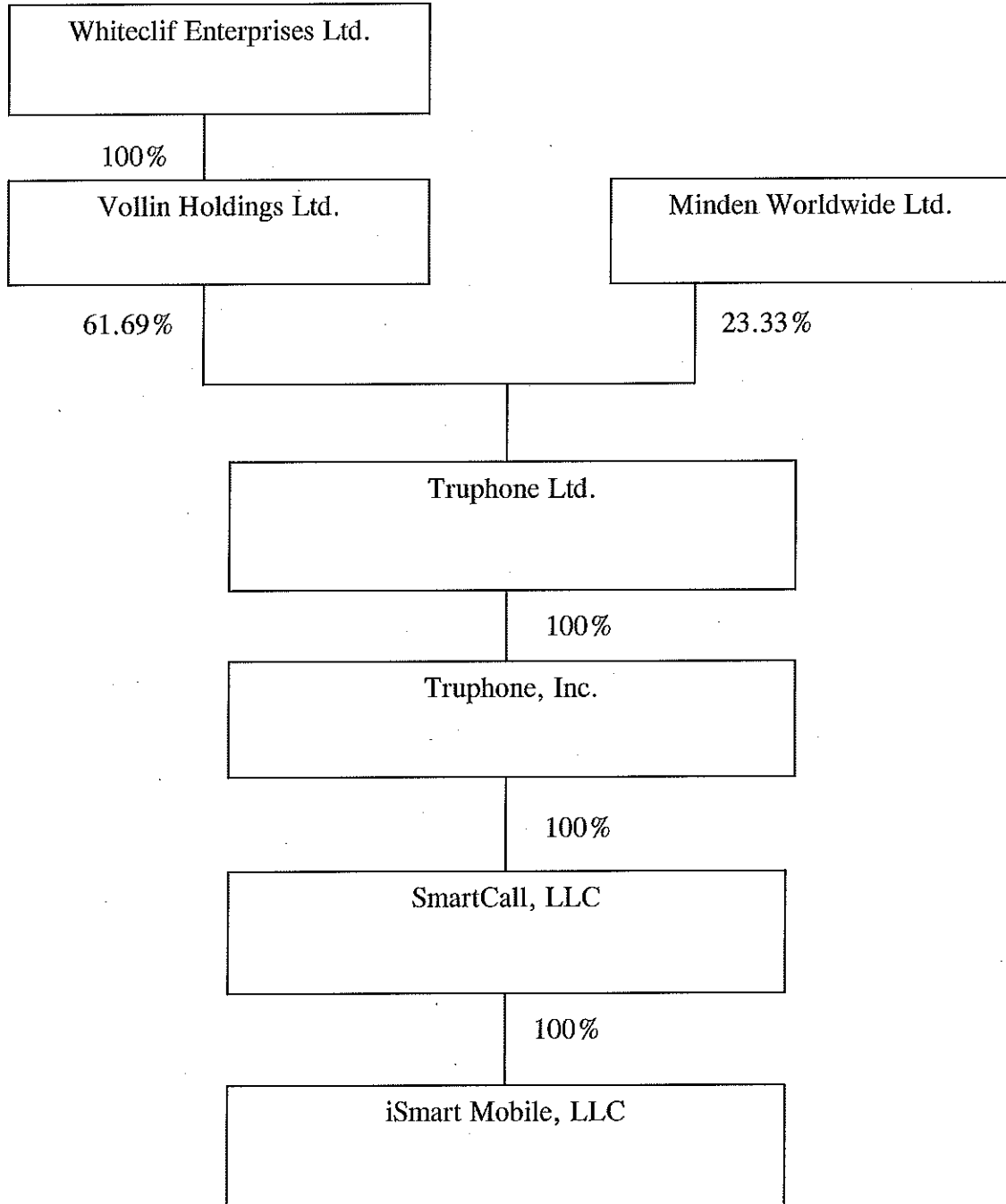
This petition seeks authorization of the potential acquisition by Minden Worldwide Limited of an ownership interest in Truphone Limited that potentially may exceed 25% as described in more detail in this petition. Minden Worldwide Limited currently holds a 23.33 percent equity/voting interest in Truphone Limited.

1.991(j)(2)(i)

Minden Worldwide Limited
Place of organization: British Virgin Islands
Type of business organization: Limited company
Principal businesses: Investment holding company

Section 1.991(h)(2) Exhibit

Alexander Abramov
Alexander Frolov



DECLARATION

I, Gregory Mappedoram, General Counsel and Company Secretary of Truphone Limited, on behalf of the Petitioners included in the foregoing Petition to Modify Declaratory Ruling ISP-PDR-20120913-00005, state under penalty of perjury that: (1) the information contained in the foregoing Petition is accurate and (2) all ownership interests disclosed in the Petition have been calculated based upon FCC rules and that the interests disclosed satisfy each of the pertinent standards and criteria set forth in the rules.



Gregory Mappedoram

27TH NOVEMBER 2013

Date