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11 Attorneys for Plaintiff  
CISCO SYSTEMS, INC.

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN JOSE DIVISION

16 CISCO SYSTEMS, INC.,  
17 Plaintiff,  
18 v.  
19 TIVO INC.,  
20 Defendant.  
21

CV 12-02766

Case No.:

**COMPLAINT FOR DECLARATORY  
JUDGMENT**

ADR

E-filing

ORIGINAL FILED

MAY 30 2012

Richard W. Wieking  
Clerk, U.S. District Court  
Northern District of California  
SAN JOSE

COPY

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1 Plaintiff Cisco Systems, Inc. ("Cisco"), for its complaint against TiVo Inc. ("TiVo"),  
2 alleges as follows:

3 1. This is an action for declaratory judgment of non-infringement and invalidity of  
4 U.S. Patents Numbers 6,233,389 ("the '389 patent") (attached hereto as Exhibit A), 7,529,465  
5 ("the '465 patent") (attached hereto as Exhibit B), 7,493,015 ("the '015 patent") (attached hereto  
6 as Exhibit C), and 6,792,195 ("the '195 patent") (attached hereto as Exhibit D) (collectively, the  
7 "TiVo Patents").

### 8 PARTIES

9 2. Plaintiff Cisco is a California corporation with its headquarters and principal place  
10 of business at 170 West Tasman Dr., Building 10, San Jose, California 95134-1706. Cisco  
11 develops, manufactures, and supplies equipment, including digital video recorders ("DVRs"), to  
12 service providers such as Verizon, AT&T, and Time Warner Cable.

13 3. On information and belief, Defendant TiVo is a corporation organized and existing  
14 under the laws of Delaware with its principal place of business at 2160 Gold Street, Alviso,  
15 California 95002. TiVo can be served with process through its registered agent for service,  
16 Corporation Service Company, d/b/a CSC Lawyers Incorporating Service, 2710 Gateway Oaks  
17 Dr., Suite 150N, Sacramento, CA 95833.

### 18 JURISDICTION AND VENUE

19 4. This action arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*  
20 and under the patent laws of the United States, 35 U.S.C. § 1 *et seq.* This Court has subject  
21 matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

22 5. This Court has personal jurisdiction over Defendant TiVo because TiVo does  
23 business in this District and maintains its corporate headquarters and principal place of business  
24 in this District. In addition, TiVo has filed lawsuits related to the TiVo Patents in this District,  
25 including asserting the '195 patent against Microsoft.

1 6. Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400(b) because TiVo  
2 does business in this District, maintains its principal place of business in this District, and is  
3 subject to personal jurisdiction in this District.

4 **INTRADISTRICT ASSIGNMENT**

5 7. Assignment of this matter to the San Jose Division is appropriate because both  
6 Cisco and TiVo do business in this District, maintain their principal places of business in this  
7 District, and are subject to jurisdiction in this District.

8 **EXISTENCE OF AN ACTUAL CONTROVERSY**

9 8. There is an actual controversy within the jurisdiction of this Court under 28 U.S.C.  
10 §§ 2201 and 2202.

11 9. Cisco is the worldwide leader in networking. Innovation is a Cisco hallmark. As a  
12 technology innovator, Cisco employs more than 20,000 engineers and holds more than 8,000  
13 issued patents. The Patent Board has consistently recognized Cisco as a top innovator in its  
14 Telecom and Communications Patent Scorecard.

15 10. Cisco is a leading provider of set-top boxes and end-to-end video distribution  
16 networks. Through its deep expertise in IP networking, video, and consumer premise solutions,  
17 Cisco is making video easier to use and helping customers rapidly deploy video. Cisco's end-to-  
18 end, digital video distribution systems and digital interactive set-top boxes enable service  
19 providers and content originators to deliver entertainment, information, and communication  
20 services to consumers and businesses. Cisco's range of set-top box product offerings includes  
21 both standard IP-capable models and radio frequency models that can securely distribute content,  
22 as well as models with DVR options.

23 11. Cisco sells its DVRs to leading service providers, including but not limited to,  
24 Verizon, AT&T, and Time Warner Cable.

25 12. TiVo has pursued an aggressive licensing and litigation strategy that focuses on  
26 asserting the TiVo Patents against DVR products. In TiVo's 2012 annual filing with the U.S.

1 Securities and Exchange Commission, TiVo identified one of its primary revenue sources as  
2 “licensing revenues ... in connection with settlements of litigation.”

3 13. TiVo has aggressively asserted its patents through litigation and licensing  
4 activities against a number of companies. TiVo has initiated numerous lawsuits alleging that one  
5 or more companies that make, use, or sell DVRs infringe the TiVo Patents, including suits against  
6 EchoStar, AT&T, and Verizon.

7 14. TiVo recently filed claims asserting that Motorola, a DVR manufacturer like  
8 Cisco, both directly and indirectly infringes the claims of the ‘389, ‘465, and ‘195 patents through  
9 its manufacture, use, and sale of “set-top boxes with DVR functionality.”

10 15. TiVo has also asserted infringement of the TiVo Patents against a number of  
11 Cisco’s customers. For example, just months after the ‘015 and ‘465 patents issued, TiVo filed  
12 lawsuits against Cisco’s customers Verizon and AT&T accusing them of infringing the ‘389  
13 patent, as well as the newly issued ‘015 and ‘465 patents, with their DVR products and services.  
14 In the AT&T lawsuit, on information and belief, TiVo alleged that Cisco DVRs infringed one or  
15 more of the TiVo Patents. In the Verizon lawsuit, on information and belief, TiVo has accused  
16 Verizon of infringement based on its DVR services and products, specifically Motorola DVRs.  
17 On information and belief, TiVo has filed a motion to add additional infringement accusations  
18 against Cisco DVRs in the Verizon lawsuit. In addition, TiVo has recently asserted  
19 counterclaims against another Cisco customer, Time Warner Cable, in litigation involving  
20 Motorola DVRs.

21 16. Cisco and TiVo have engaged in certain limited commercial transactions involving  
22 Cisco’s customers which purchase Cisco video technology. In connection with those  
23 transactions, Cisco and TiVo have had licensing discussions where TiVo indicated that it did not  
24 want to broadly license TiVo technology to Cisco because providing any such license to a DVR  
25 manufacturer such as Cisco would interfere with TiVo’s ability to continue to assert TiVo’s  
26 patents in individual lawsuits against Cisco’s customers, the service providers.








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5. A judgment awarding Cisco such other relief as the Court may deem just and proper.

Dated: May 30, 2012

WEIL, GOTSHAL & MANGES LLP  
By:   
Jared Bobrow  
Attorney for Plaintiff  
Cisco Systems, Inc.