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RICHARD W. WIEKING
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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

C 10 0240

MICROSOFT CORPORATION,

Plaintiff,

v.

TIVO INC.,

Defendant.

Case No. _____

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

25 For its Complaint against Defendant TiVo Inc. ("Defendant" or "TiVo"), Plaintiff
 26 Microsoft Corporation ("Microsoft") alleges as follows:
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MICROSOFT'S COMPLAINT

1 **Jurisdiction and Venue**

2 1. This is an action for patent infringement arising under the United States Patent
3 Act, 35 U.S.C. § 1, et seq. The Court has subject matter jurisdiction over the claims pleaded
4 herein under 28 U.S.C. §§ 1331 and 1338(a).

5 2. The Court has personal jurisdiction over Defendant TiVo because Defendant does
6 business in this District, maintains its corporate headquarters and principal place of business in
7 this District, and has committed acts of infringement in this District.

8 3. Under 28 U.S.C. §§ 1391 and 1400(b), venue is proper in this District because
9 Defendant is subject to personal jurisdiction in this District, has sold, offered to sell and/or
10 imported products and services at issue in and into this District and has committed acts of
11 infringement in this District.

12 **The Parties**

13 4. Microsoft is a corporation organized under the laws of the State of Washington,
14 with its principal place of business in Redmond, Washington and a place of business in this
15 District in Mountain View, California. Microsoft is a long-time leader in the development and
16 innovation of software technologies, including technologies for digital home entertainment.

17 5. Microsoft is informed and believes that: Defendant TiVo is a Delaware
18 corporation that maintains its principal place of business and corporate headquarters in this
19 District in Alviso, California. Defendant offers for sale, sells, distributes and imports products
20 and services in and into the United States for use in audio-video home entertainment systems.
21 Such products and services include set-top boxes known as digital video recorders or “DVRs,”
22 and subscription services provided through network connections between such set-top boxes and
23 computer servers. Defendant’s subscriber base includes approximately 2.7 million households.
24 Defendant further licenses and provides software for use in set-top boxes and servers that are
25 used, sold and/or distributed by or through media content providers. Defendant’s set-top box
26 products and subscription services permit users to obtain, control and watch television, videos,
27 movies, pictures and other content from cable, broadcast, broadband, satellite and/or other
28 sources.

Count 1:
Claim for Relief from Infringement of U.S. Patent No. 6,008,803

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2 6. Microsoft incorporates by this reference the allegations set out in paragraphs 1-5
3 above.

4 7. Microsoft is the owner of the entire right, title and interest in and to U.S. Patent
5 No. 6,008,803 (the "'803 patent"), entitled "System for Displaying Programming Information."
6 A copy of the '803 patent is attached as Exhibit A hereto.

7 8. Microsoft is informed and believes that: Defendant has infringed the '803 patent
8 by using, offering for sale, selling, and/or importing products, systems and/or processes in or into
9 the United States, and within the scope of one or more claims of the '803 patent, without license
10 or authority. Such infringing products, systems and/or services include (without limitation)
11 Defendant's set-top box products, subscription services and software.

12 9. Microsoft is informed and believes that: Defendant has contributorily infringed
13 the '803 patent by using, offering for sale, selling, and/or importing products or components of
14 products that constitute a material part of the invention(s) claimed in the '803 patent, without
15 license or authority, knowing that such products and/or components are especially made or
16 especially adapted for use in practicing the invention(s) claimed in the '803 patent and not staple
17 articles or commodities of commerce suitable for substantial noninfringing uses. Such products
18 or components include (without limitation) those associated with Defendant's set-top box
19 products and subscription service.

20 10. Microsoft is informed and believes that: Defendant has infringed the '803 patent
21 by supplying or causing to be supplied in or from the United States, without license or authority,
22 components or products that are combined and/or used outside the United States in a manner that
23 falls within the scope of one or more claims of the '803 patent. Such products or components
24 include (without limitation) those associated with Defendant's set-top box products and
25 subscription service.
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1 11. Defendant's infringement and contributory infringement of the '803 patent is
2 ongoing. Unless enjoined, Defendant will continue to infringe the '803 patent, and Microsoft will
3 suffer irreparable injury as a direct and proximate result of Defendant's conduct.

4 12. Microsoft has been damaged by Defendant's conduct, and until an injunction
5 issues, will continue to be damaged in an amount yet to be determined.

6 **Count 2:**
7 **Claim for Relief from Infringement of U.S. Patent No. 6,055,314**

8 13. Microsoft incorporates by this reference the allegations set out in paragraphs 1-12
9 above.

10 14. Microsoft is the owner of the entire right, title and interest in and to U.S. Patent
11 No. 6,055,314 (the "'314 patent"), entitled "System and Method for Secure Purchase and
12 Delivery of Video Content Programs." A copy of the '314 patent is attached as Exhibit B hereto.

13 15. Microsoft is informed and believes that: Defendant has infringed the '314 patent
14 by using, offering for sale, selling, and/or importing products, systems and/or processes in or into
15 the United States, and within the scope of one or more claims of the '314 patent, without license
16 or authority. Such infringing products, systems and/or services include (without limitation)
17 Defendant's set-top box products, subscription services and software.

18 16. Microsoft is informed and believes that: Defendant has contributorily infringed
19 the '314 patent by using, offering for sale, selling, and/or importing products or components of
20 products that constitute a material part of the invention(s) claimed in the '314 patent, without
21 license or authority, knowing that such products and/or components are especially made or
22 especially adapted for use in practicing the invention(s) claimed in the '314 patent and not staple
23 articles or commodities of commerce suitable for substantial noninfringing uses. Such products
24 or components include (without limitation) those associated with Defendant's set-top box
25 products and subscription service.

26 17. Microsoft is informed and believes that: Defendant has infringed the '314 patent
27 by supplying or causing to be supplied in or from the United States, without license or authority,
28 components or products that are combined and/or used outside the United States in a manner that

1 falls within the scope of one or more claims of the '314 patent. Such products or components
2 include (without limitation) those associated with Defendant's set-top box products and
3 subscription service.

4 18. Defendant's infringement and contributory infringement of the '314 patent is
5 ongoing. Unless enjoined, Defendant will continue to infringe the '314 patent, and Microsoft will
6 suffer irreparable injury as a direct and proximate result of Defendant's conduct.

7 19. Microsoft has been damaged by Defendant's conduct, and until an injunction
8 issues, will continue to be damaged in an amount yet to be determined.

9 **Requested Relief**

10 Microsoft requests the entry of judgment that:

- 11 a. The '803 and '314 patents are valid and enforceable;
12 b. Defendant is liable for infringement of the '803 and '314 patents;
13 c. Defendant and all affiliates, subsidiaries, officers, directors, employees,
14 agents, representatives, licensees, successors, assigns, and all those acting
15 in concert with, or for or on behalf of, Defendant shall be enjoined from
16 direct or indirect infringement of the '803 and '314 patents;
17 d. Defendant shall pay damages to Microsoft;
18 e. This action be determined to be an exceptional case and Microsoft be
19 awarded its attorney's fees, costs and expenses; and
20 f. Microsoft be awarded such further relief as the Court deems appropriate.

21 **Demand for Jury Trial**

22 Microsoft demands a trial by jury of all issues that are triable to a jury.
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DATED: January 19, 2010

Respectfully submitted,

PERKINS COIE BROWN & BAIN P.A.
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