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The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

MICROSOFT CORPORATION,	)	
	)	No. 2:11-cv-00134 RSM
Plaintiff,	)	<b>STIPULATION AND [PROPOSED]</b>
v.	)	<b>ORDER REGARDING ANSWER TO</b>
	)	<b>COMPLAINT</b>
TIVO INC.,	)	
	)	NOTE ON MOTION CALENDAR:
Defendant.	)	<b>FEBRUARY 16, 2011</b>

**STIPULATION**

WHEREAS, Plaintiff Microsoft Corp. (“Microsoft”) filed its initial complaint in this matter against Defendant TiVo Inc. (“TiVo”) on January 24, 2011;

WHEREAS, on January 24, 2011, Microsoft filed a complaint with the United States International Trade Commission under section 337 of the Tariff Act of 1930 regarding the same four patents at issue in this matter and proposed that TiVo be named the respondent in that proceeding before the Commission (the “ITC Action”);

WHEREAS, in the event TiVo is named a respondent in the ITC Action, TiVo intends to move to stay this matter under 28 U.S.C. § 1659(a), which provides:

- (a) STAY. In a civil action involving parties that are also parties to a proceeding before the United States International Trade Commission under section 337 of the Tariff Act of 1930, at the request of a party to the civil action that is also a

1 respondent in the proceeding before the Commission, the district court shall stay,  
2 until the determination of the Commission becomes final, proceedings in the civil  
3 action with respect to any claim that involves the same issues involved in the  
4 proceeding before the Commission . . . .;

5 NOW THEREFORE, Microsoft and TiVo, by and through their respective counsel of  
6 record, hereby stipulate and agree as follows:

- 7 1) TiVo's time to answer or otherwise respond to Microsoft's complaint in this  
8 matter shall be extended to and includes March 18, 2011.
- 9 2) In the event TiVo, on or before March 18, 2011, files a motion to stay this matter,  
10 the time for TiVo to file an answer to Microsoft's complaint shall be further extended until after  
11 such motion has been decided on the merits.
- 12 3) If a stay is entered, TiVo shall answer or otherwise respond to Microsoft's  
13 complaint within ten days of the date the stay is ultimately lifted. If a stay is denied on the  
14 merits, TiVo shall answer or otherwise respond to Microsoft's complaint within ten days of the  
15 date of such decision.

16 SO STIPULATED.

17 DATED this 16th day of February, 2011.

18  
19 BYRNES KELLER CROMWELL LLP

DANIELSON HARRIGAN LEYH &  
TOLLEFSON LLP

20 By /s/ Jofrey M. McWilliam

By /s/ Christopher Wion

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22 [Tim.DeMasi@weil.com](mailto:Tim.DeMasi@weil.com)  
23 *Counsel for Plaintiff Microsoft Corporation*

24 **ORDER**

25 Based on the foregoing stipulation, it is hereby ordered that:

26 (1) The time within which TiVo shall be required to answer or otherwise respond to  
Microsoft's complaint in this matter is hereby extended to and includes March 18, 2011.

(2) In the event TiVo, on or before March 18, 2011, files a motion to stay this matter,  
the time for TiVo to file an answer to Microsoft's complaint shall be further extended until after  
such motion has been decided on the merits.

(3) If a stay is entered, TiVo shall answer or otherwise respond to Microsoft's  
complaint within ten days of the date the stay is ultimately lifted. If a stay is denied on the  
merits, TiVo shall answer or otherwise respond to Microsoft's complaint within ten days of the  
date of such decision.

1 DATED this \_\_\_\_ day of February, 2011.

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4 Honorable Ricardo S. Martinez  
5 United States District Court Judge  
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1 **CERTIFICATE OF SERVICE**

2 The undersigned attorney certifies that on the 16th day of February, 2011, I electronically  
3 filed the foregoing with the Clerk of the Court using the CM/ECF system which will send  
4 notification of such filing to the following:

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