

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

TiVo Inc., a Delaware corporation,

Plaintiff,

v.

1. EchoStar Communications Corporation, a Nevada corporation; 2. EchoStar DBS Corporation, a Colorado corporation; 3. EchoStar Technologies Corporation, a Texas corporation; 4. Echosphere Limited Liability Company, a Colorado limited liability company; and 5. EchoStar Satellite LLC, a Colorado limited liability company,

Defendants.

No. 2-04cv01 DF
(Judge Folsom)

**THE ECHOSTAR DEFENDANTS'
UNOPPOSED MOTION FOR
WITHDRAWAL OF THEIR MOTION
FOR INTERPRETATION OF THE
PERMANENT INJUNCTION**

**THE ECHOSTAR DEFENDANTS' UNOPPOSED MOTION FOR WITHDRAWAL OF
THEIR MOTION FOR INTERPRETATION OF THE INJUNCTION**

The EchoStar Defendants ("EchoStar") respectfully move the Court for withdrawal of their Motion for Interpretation of the Injunction filed on June 13, 2008 (Docket No. 831), stating:

TiVo has conceded that, conceptually, EchoStar is entitled to exchange previously-placed same-model-number units with Unenjoined Units (those subject to the 192,708-unit exemption provided for in the Injunction) in need of repair. The parties only disagree as to the specifics of such a program. For example, TiVo argues that this right exists only with respect to units placed before the jury verdict; a proposition that EchoStar rejects. The Injunction issued several months after the jury verdict and makes no mention of that date with respect to the phrase "placed with an end user or subscriber."

In any event, due to internal business decisions, EchoStar recently determined that it no longer needs the relief requested. EchoStar is increasingly moving to set-top boxes compatible

with MPEG-4 technology, as opposed to MPEG-2, which is the platform for the DP-721, DP-921, and DP-942 models.

Thus, EchoStar has recently adopted a new program in which it replaces non-functioning boxes of those three models with different models compatible with MPEG-4 technology.

WHEREFORE, EchoStar respectfully moves the Court for withdrawal of their Motion for Interpretation of the Permanent Injunction filed on June 13, 2008 (Docket No. 831).

Respectfully submitted,

Dated: July 18, 2008

MORRISON & FOERSTER LLP

By: /s/ Rachel Krevans
Rachel Krevans

Harold J. McElhinny (*Pro Hac Vice*)
Rachel Krevans (*Pro Hac Vice*)
Karl J. Kramer (*Pro Hac Vice*)
425 Market Street
San Francisco, California 94105-2482
Telephone: (415) 268-7000
Fax: (415) 268-7522

Damon Young
YOUNG PICKETT & LEE
Post Office Box 1897
4122 Texas Boulevard
Texarkana, Texas 75504
(903) 794-1303
(903) 792-5928 (fax)

Attorneys for Defendants ECHOSTAR
COMMUNICATIONS CORPORATION,
ECHOSTAR DBS CORPORATION,
ECHOSTAR TECHNOLOGIES
CORPORATION, ECHOSPHERE
LIMITED LIABILITY COMPANY, and
ECHOSTAR SATELLITE LLC

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that the Defendants have conferred with counsel for Plaintiff in compliance with the meet and confer requirement of Local Rule CV-7(h). The motion is unopposed.

/s/ Rachel Krevans
Rachel Krevans

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 18, 2008, all counsel of record who are deemed to have consented to electronic service are being served with a copy of the foregoing document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Rachel Krevans
Rachel Krevans