TIVO INC
Form 10-Q
June 09, 2009
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark One)

x **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the quarterly period ended April 30, 2009

OR

¨ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the transition period from _________ to _________

Commission file number 000-27141

TIVO INC.

(Exact name of registrant as specified in its charter)

Delaware	**77-0463167**
(State or other jurisdiction of	**(I.R.S. Employer**

incorporation or organization) **Identification No.)**

2160 Gold Street, P.O. Box 2160, Alviso, CA 95002

(Address of principal executive offices including zip code)

(408) 519-9100

(Registrant s telephone number, including area code)

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days. YES x NO ¨.

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate website, if any, every interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or such shorter period that the registrant was required to submit and post such files). YES ¨ NO ¨.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definition of accelerated filer, large accelerated filer , and smaller reporting company in Rule 12b-2 of the Exchange Act).

Large Accelerated Filer ¨ Accelerated Filer x Non-Accelerated Filer ¨ Smaller Reporting Company ¨

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). YES ¨ NO x.

The number of shares outstanding of the registrant s common stock, $0.001 par value, was 105,133,482 as of May 31, 2009.

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Except as the context otherwise requires, the terms TiVo, Registrant, Company, we, us, or our as used herein are references to TiVo Inc. a consolidated subsidiaries.

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CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

This quarterly report on Form 10-Q contains certain forward-looking statements within the meaning of section 27A of the Securities Act of 1933, as amended, and section 21E of the Securities Exchange Act of 1934, as amended. These statements relate to, among other things:

- our future investments in subscription acquisition activities, offers of bundled hardware and service subscriptions, advertising expenditures, future use of consumer rebates, hardware subsidies, and other marketing activities and their impact on our total acquisition costs;
- our future earnings including expected future service and technology revenues and future TiVo-Owned and multiple system operators (MSOs)/Broadcasters average revenue per subscription;
- expectations of the growth in the future DVR market generally, and the high definition market specifically;
- expectations of the growth of the TiVo service and technology outside the United States;
- our financial results, expected future cost savings from our reduction in headcount on November 18, 2008, expectations of future revenues and profitability, and expectations for the future use of advertising trade credits;
- our expectations with respect to the possible future outcomes and the possible receipt of additional damages in our on-going litigation with EchoStar;
- our expectations with respect to the timing of further rollout of the TiVo service on Comcast, the launch of the TiVo service on Cox and the launch of the High Definition (HD) DIRECTV DVR with TiVo service;
- possible future increases in our general and administrative expenses, including expenditures related to lawsuits involving us;
- possible future increases in our operating expenses, including increases in customer support and retention expenditures;
- future subscription growth or attrition of both TiVo-Owned and MSOs/Broadcasters (such as Comcast, Cox, DIRECTV, Seven (Australia) and in the future Television New Zealand (TVNZ) (New Zealand), and Cablevision (Mexico)) and deployment of the service by them;
- expectation of future technology and service revenues from MSOs/Broadcasters, such as Comcast, Cox, DIRECTV, Seven (Australia) and in the future Television New Zealand (TVNZ) (New Zealand), and Cablevision (Mexico) and deployment of the TiVo service by them;
- future availability of digital content from Blockbuster through the TiVo service;

- our estimates of the useful life of TiVo-enabled DVRs in connection with the recognition of revenue received from product lifetime subscriptions;
- expectations regarding the seasonality of our business and subscription additions to the TiVo service;
- our intentions to continue to grow the number of TiVo-Owned subscriptions through our relationships with major retailers;
- our estimates and expectations related to inventory and inventory-related write-downs and our possible utilization of such inventory reserves in the future;
- our expectations related to future increases in advertising and audience research measurement revenues;
- our expectations related to changes in the cost of our hardware revenues and the reasons for changes in the volume of DVRs sold to retailers;
- our ability to fund operations, capital expenditures, and working capital needs during the next year;
- our ability to raise additional capital through the financial markets in the future;
- our ability to perform or comply with laws, regulations, and requirements different than those in the United States;
- our estimates and expectations related to investments in auction rate securities and their associated carrying value;
- our ability to oversee our outsourcing of manufacturing processes and engineering work, and management of our inventory; and
- the impact of transition to digital distribution technologies by both broadcasters and cable operators.

Forward-looking statements generally can be identified by the use of forward-looking terminology such as believe, expect, may, will, intend, estimate, continue, ongoing, predict, potential, and anticipate or similar expressions or the negative of those terms or expressions. These statements involve known and unknown risks, uncertainties and other factors, which may cause our actual results, performance or achievements to differ materially from those expressed or implied by such forward-looking statements. Such factors include, among others, the information contained under the caption Part II, Item 1A. Risk Factors in this quarterly report and contained under the caption Part I, Item 1A. Risk Factors in our most recent annual report on Form 10-K. The reader is cautioned not to place undue reliance on these forward-looking statements, which reflect management s analysis only as of the date of this annual report and we undertake no obligation to publicly update or revise any forward-looking statements in this quarterly report. The reader is strongly urged to read the information set forth under the caption Part I, Item 2, Management s Discussion and Analysis of Financial Condition and Results of Operations, and Part II, Item 1A, Risk Factors for a more detailed description of these significant risks and uncertainties.

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PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

TIVO INC.

CONDENSED CONSOLIDATED BALANCE SHEETS

(In thousands, except per share and share amounts)

(unaudited)

	April 30, 2009	January 31, 2009
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	$ 150,167	$ 162,337
Short-term investments	65,010	44,991
Accounts receivable, net of allowance for doubtful accounts of $875 and $770	11,645	14,283
Inventories	6,926	13,027
Prepaid expenses and other, current	3,577	4,896
Total current assets	237,325	239,534
LONG-TERM ASSETS		
Property and equipment, net	10,220	10,285
Purchased technology, capitalized software, and intangible assets, net	11,295	10,597
Prepaid expenses and other, long-term	1,515	1,268
Long-term investments	3,684	3,944
Total long-term assets	26,714	26,094
Total assets	$ 264,039	$ 265,628
LIABILITIES AND STOCKHOLDERS EQUITY		
LIABILITIES		
CURRENT LIABILITIES		
Accounts payable	$ 8,073	$ 9,844
Accrued liabilities	21,447	25,054
Deferred revenue, current	44,300	47,560
Total current liabilities	73,820	82,458
LONG-TERM LIABILITIES		
Deferred revenue, long-term	26,965	28,557
Deferred rent and other long-term liabilities	126	126
Total long-term liabilities	27,091	28,683
Total liabilities	100,911	111,141
COMMITMENTS AND CONTINGENCIES (see Note 8)		
STOCKHOLDERS EQUITY		
Preferred stock, par value $0.001: Authorized shares are 10,000,000; Issued and outstanding shares - none		

Common stock, par value $0.001: Authorized shares are 275,000,000; Issued shares are 104,982,528 and 103,604,015, respectively and outstanding shares are 104,479,782 and 103,370,523, respectively	105	104
Additional paid-in capital	844,299	829,273
Accumulated deficit	(676,325)	(672,196)
Treasury stock, at cost - 502,746 shares and 233,492 shares, respectively	(3,666)	(1,659)
Accumulated other comprehensive loss	(1,285)	(1,035)
Total stockholders equity	163,128	154,487
Total liabilities and stockholders equity	$ 264,039	$ 265,628

The accompanying notes are an integral part of these condensed consolidated financial statements.

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TIVO INC.

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

(In thousands, except per share and share amounts)

(unaudited)

	Three Months Ended April 30, 2009	2008
Revenues		
Service revenues	$ 42,129	$ 48,443
Technology revenues	6,386	6,407
Hardware revenues	6,376	5,945
Net revenues	54,891	60,795
Cost of revenues		
Cost of service revenues (1)	10,150	11,194
Cost of technology revenues (1)	4,483	3,920
Cost of hardware revenues	10,576	10,365
Total cost of revenues	25,209	25,479
Gross margin	29,682	35,316
Research and development (1)	15,066	14,748
Sales and marketing (1)	5,695	5,936
Sales and marketing, subscription acquisition costs	982	1,159
General and administrative (1)	12,242	10,336
Total operating expenses	33,985	32,179
Income (loss) from operations	(4,303)	3,137
Interest income	190	579
Interest expense and other		(87)
Income (loss) before income taxes	(4,113)	3,629
Provision for income taxes	(16)	(13)
Net income (loss)	$ (4,129)	$ 3,616
Net income (loss) per common share - basic	$ (0.04)	$ 0.04
Net income (loss) per common share - diluted	$ (0.04)	$ 0.04
Weighted average common shares used to calculate basic net income (loss) per share	102,278,944	99,386,826
Weighted average common shares used to calculate diluted net income (loss) per share	102,278,944	102,709,583

(1) Includes stock-based compensation expense as follows :

Cost of service revenues	$ 263	$ 191

Cost of technology revenues	557	606
Research and development	2,491	1,982
Sales and marketing	685	540
General and administrative	3,074	2,158

The accompanying notes are an integral part of these condensed consolidated financial statements.

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TIVO INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(In thousands)

(unaudited)

	Three Months Ended April 30, 2009	2008
CASH FLOWS FROM OPERATING ACTIVITIES		
Net income (loss)	$ (4,129)	$ 3,616
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:		
Depreciation and amortization of property and equipment and intangibles	2,310	2,572
Stock-based compensation expense	7,070	5,477
Amortization of trade credits	11	
Allowance for doubtful accounts	97	25
Changes in assets and liabilities:		
Accounts receivable	2,541	9,567
Inventories	6,101	3,859
Prepaid expenses and other	1,061	66
Accounts payable	(2,382)	(15,649)
Accrued liabilities	(3,588)	(5,557)
Deferred revenue	(4,852)	(5,356)
Deferred rent and other long-term liabilities		(82)
Net cash provided by (used in) operating activities	$ 4,240	$ (1,462)
CASH FLOWS FROM INVESTING ACTIVITIES		
Purchases of short-term and long-term investments	(99,936)	
Sales of short-term investments	79,927	13,496
Acquisition of property and equipment	(800)	(1,649)
Acquisition of intangibles	(1,532)	
Net cash provided by (used in) investing activities	$ (22,341)	$ 11,847
CASH FLOWS FROM FINANCING ACTIVITIES		
Proceeds from issuance of common stock related to exercise of common stock options	7,957	4,057
Proceeds from issuance of common stock related to employee stock purchase plan		
Treasury Stock - repurchase of stock for tax withholding	(2,007)	(454)
Payment under capital lease obligation	(19)	
Net cash provided by financing activities	$ 5,931	$ 3,603
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	$ (12,170)	$ 13,988
CASH AND CASH EQUIVALENTS:		
Balance at beginning of period	162,337	78,812
Balance at end of period	$ 150,167	$ 92,800

The accompanying notes are an integral part of these condensed consolidated financial statements.

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TIVO INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(unaudited)

1. NATURE OF OPERATIONS

TiVo Inc. (together with its subsidiaries the Company or TiVo) was incorporated in August 1997 as a Delaware corporation and is located in Alviso, California. TiVo is a provider of technology and services for digital video recorders (DVRs). The subscription-based TiVo® service (TiVo service) improves home entertainment by providing consumers with an easy way to record, watch, and control television. TiVo also provides a unique advertising platform and audience research measurement services. The Company conducts its operations through one reportable segment.

The Company is subject to a number of risks, including delays in product and service developments; competitive service offerings; lack of market acceptance; uncertainty of future profitability; the dependence on third parties for manufacturing, marketing, and sales support; the intellectual property claims against the Company; and dependence on its relationships with third party service providers such as Comcast and Seven (Australia) and in the future DIRECTV and Cox for subscription growth. The Company anticipates that its business will continue to be seasonal and expects to generate a significant portion of its new subscriptions during and immediately after the holiday shopping season. However, as a result of the recent national and global economic downturn and overall consumer spending we are cautious about our subscription growth in the near term.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All inter-company accounts and transactions have been eliminated in consolidation.

Unaudited Interim Condensed Consolidated Financial Statements

The accompanying unaudited interim condensed consolidated financial statements have been prepared in accordance with generally accepted accounting principles (GAAP) for interim financial information, the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, the unaudited interim condensed consolidated financial statements do not contain all of the information and footnotes required by generally accepted accounting principles for complete audited annual financial statements. In the opinion of management, the accompanying unaudited condensed consolidated financial statements include all adjustments, consisting only of normal recurring adjustments, necessary for the fair presentation of the Company s financial position as of April 30, 2009 and January 31, 2009 and the results of operations for the three month periods ended April 30, 2009 and 2008 and condensed consolidated statements of cash flows for the three month periods ended April 30, 2009 and 2008. These unaudited condensed consolidated financial statements should be read in conjunction with the Company s audited consolidated financial statements, including the notes thereto, included in the Company s annual report on Form 10-K for the fiscal year ended January 31, 2009. Operating results for the three month period ended April 30, 2009 are not necessarily indicative of results that may be expected for this fiscal year ending January 31, 2010.

Use of Estimates

The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. The estimates and judgments affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent liabilities. On an on-going basis, the Company evaluates its estimates, including those related to estimated lives of product lifetime subscriptions, total estimated cost of engineering service agreements, customer programs and incentives, product returns, inventories and related reserves, warranty obligations, contingencies, stock compensation, assessment of other-than-temporary impairment of investments, and litigation. The Company bases estimates on historical experience and on other assumptions that its management believes are reasonable under the circumstances. Illiquid credit markets and declines in consumer spending have combined to increase the uncertainty inherent in such estimates and assumptions. As future events and their effects cannot be determined with precision, actual results could differ significantly from these estimates. Changes in those estimates resulting from continuing changes in the economic environment will be reflected in the financial statements in future periods and actual results could differ from these estimates.

Revenue Recognition and Deferred Revenue

The Company generates service revenues from fees for providing the TiVo service to consumers and through the sale of advertising and audience research measurement services. The Company also generates technology revenues from licensing technology and by providing engineering professional services. In addition, the Company generates hardware revenues from the sale of hardware products that enable the TiVo service.

Service Revenues. Included in service revenues are revenues from recurring and prepaid subscription plans to the TiVo service and fees received from the sale of advertising and audience research measurement services. Monthly and prepaid fixed-length subscription revenues are recognized ratably over the period the service is provided. Subscription revenues from product lifetime subscriptions are recognized ratably over the Company s estimate of the useful life of a TiVo-enabled DVR associated with the subscription. Prior to November 1, 2007, the estimate of the useful life of these DVRs was 48 months. Effective November 1, 2008, the Company extended the period it uses to recognize product lifetime subscription revenues from 54 months to 60 months for the product lifetime subscriptions acquired on or before October 31, 2007 and such change is being recognized on a prospective basis with no adjustment to previously recognized revenues. The new estimates of expected lives are dependant on assumptions with regard to

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future churn of the product lifetime subscriptions. During fiscal year ending January 31, 2010, the Company will continue to monitor the useful life of a TiVo-enabled DVR and the impact of the differences between actual churn and forecasted churn rates. If subsequent actual experience is not in line with the Company s current assumptions, including higher churn of product lifetime subscriptions due to the incompatibility of its standard definition TiVo units with high definition programming and increased competition, the Company may revise the estimated life which could result in the recognition of revenues from this source over a longer or shorter period.

End users have the right to cancel their subscription within 30 days of the activation for a full refund. TiVo establishes allowances for expected subscription cancellations. Also included in service revenues are fees received from multiple system operators (MSOs), such as Comcast, Cablevision and DIRECTV, as well as other service providers for provision of the TiVo service that are recognized as services are provided. When applicable, a percentage of such fees, equal to the fair value of the undelivered development services, is deferred and recognized as technology revenues when development services are provided or as service revenues when the right to use these deferred fees is forfeited.

Technology Revenues. The Company recognizes technology revenues under technology licensing and engineering services agreements in accordance with SOP 97-2, *Software Revenue Recognition,* as amended. In instances where TiVo hosts the TiVo service the Company follows the provisions of the SEC Staff Accounting Bulletin No. 104, *Revenue Recognition,* or SAB 104, and FASB Emerging Issues Task Force Issue No. 00-21, *Revenue Arrangements with Multiple Deliverables,* or EITF No. 00-21. For each arrangement, the Company determines whether evidence of an arrangement exists, delivery has occurred, the fee is fixed or determinable and collection is probable. Revenue recognition is deferred until such time as all of the criteria are met. Elements included in the Company s arrangements may include technology licenses and associated maintenance and support, engineering services and other services. Under SOP 97-2 or EITF 00-21, vendor specific objective evidence (VSOE) or verifiable objective evidence (VOE) of fair value, respectively, is required for all undelivered elements in order to recognize revenue related to the delivered element. The timing of revenue recognition related to these transactions will depend, in part, on whether the Company can establish VSOE or VOE for undelivered elements and on how these transactions are structured. As such, revenue recognition may not correspond to the timing of related cash flows or the Company s work effort. The Company has established VSOE of fair value for engineering services based on hourly rates charged for engineering services sold on a standalone basis.

In arrangements which include engineering services that are essential to the functionality of the licensed technology or involve significant customization or modification of the software, the Company recognizes revenue using the percentage-of-completion method, as described in SOP 81-1 *Accounting for Performance of Construction-Type and Certain Production-Type Contracts,* if the Company believes it is able to make reasonably dependable estimates of the extent of progress toward completion. The Company measures progress toward completion using an input method based on the ratio of costs incurred, principally labor, to date to total estimated costs of the project. These estimates are assessed continually during the term of the contract, and revisions are reflected when the changed conditions become known. Provisions for losses on contracts are recorded when estimates indicate that a loss will be incurred on a contract. In some cases, it may not be possible to separate the various elements within the arrangement due to a lack of VSOE or VOE for undelivered elements in the contract or because of the lack of reasonably dependable estimates of total costs. In these situations, provided that the Company is reasonably assured that no loss will be incurred under the arrangement, the Company recognizes revenues and costs based on a zero profit model, which results in the recognition of equal amounts of revenues and costs, until the engineering professional services are complete. Thereafter, any profit from the engineering professional services is recognized over the period of the maintenance and support or other services that are provided, whichever is longer.

Hardware Revenues. Revenues are recognized upon product shipment to the customers or receipt of the products by the customer, depending on the shipping terms, provided that all fees are fixed or determinable, evidence of an arrangement exists and collectibility is reasonably assured. End users have the right to return their product within 30 days of the purchase. TiVo establishes allowances for expected product returns in accordance with SFAS No. 48, *Revenue Recognition When Right of Return Exists* . These allowances are recorded as a direct reduction of revenues and accounts receivable.

In accordance with EITF 01-09, certain payments to retailers and distributors such as market development funds and revenue share are recorded as a reduction of hardware revenues rather than as a sales and marketing expense. TiVo s policy is to reduce revenue when these payments are incurred and fixed or determinable. The Company also records rebates offered to consumers as a reduction of hardware revenue. In the past, the Company adjusted its rebate liability periodically for changes in redemption rates, changes in duration and amounts of rebate programs and channel inventory quantities subject to such changes. The Company terminated its rebate programs on August 30, 2008 and does not have plans to engage in rebate programs this fiscal year.

Beginning on March 15, 2006, the Company began selling the DVR and service directly to end-users through bundled sales programs through the TiVo website. Under these bundled programs, the customer receives a DVR and commits to a minimum subscription period of one to three years or product lifetime and has the option to either pay a monthly fee over the subscription term (monthly program) or to prepay the subscription fee in advance (prepaid program). After the initial committed subscription term, the customers have various pricing options at which they can renew the subscription. The VOE of fair value of the subscription services is established based on standalone sales of the service and varies by pricing plan. Under these bundled programs, revenue is allocated between hardware revenue for the DVR and service revenue for the subscription using the residual value method, with the DVR revenue recognized upon delivery and the subscription revenue being initially deferred and recognized over the term of the service commitment.

Inventories and Inventory Valuation

Inventories consist primarily of finished DVR units and are stated at the lower of cost or market on an aggregate basis, with cost determined using the first-in, first-out method. The Company performs a detailed assessment of excess and obsolete inventory and purchase commitments at each balance sheet date, which includes a review of, among other factors, demand requirements and market conditions. Based on this analysis, the Company records adjustments, when appropriate, to reflect inventory of finished products and materials on hand at lower of cost or market and to reserve for products and materials which are not forecasted to be used in future production. During the quarter ended July 31, 2007, the Company recorded an impairment charge of $11.2 million to cost

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of hardware revenues for inventory on hand and for excess non-cancelable purchase commitments in connection with the Company s standard definition DVRs. Subsequently, actual sales of the Company s standard definition DVRs have exceeded original projections due to changing market conditions. As a result, during the three months ended April 30, 2009 and 2008, the Company s gross margin was positively impacted by a net benefit of $259,000 and $1.6 million, respectively, mainly from the sale of inventory that was previously impaired in fiscal years 2007 and 2008. As of April 30, 2009, the Company maintained a $3.3 million inventory reserve as a result of these prior inventory impairment charges. In accordance with Staff Accounting Bulletin (SAB) Topic 5-BB and Accounting Research Bulletin (ARB) 43 Chapter 4, *Inventory Pricing,* even if our current sales projections exceed our original projections, the inventory reserves are not reversed until the previously impaired inventory is sold or scrapped.

Fair Value Measures

In September 2006, the FASB issued Statement of Financial Accounting Standards 157, *Fair Value Measurements* (SFAS 157). SFAS 157 defines fair value, establishes a framework for measuring fair value, and enhances fair value measurement disclosure. In October 2008, the FASB issued FASB Staff Position 157-3 *Determining the Fair Value of a Financial Asset When the Market for That Asset Is Not Active* (FSP 157-3). FSP 157-3 clarifies the application of SFAS No. 157 in a market that is not active, and provides guidance on the key considerations in determining the fair value of a financial asset when the market for that financial asset is not active. Effective February 1, 2008, the Company adopted SFAS 157; however, our initial adoption of SFAS 157 was limited to our fair value measurements of financial assets and financial liabilities, as permitted by FSP 157-2, *Effective Date of FASB Statement No. 157* . Effective February 1, 2009, the Company adopted SFAS 157 for all nonfinancial assets and nonfinancial liabilities, except for items that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). The adoption of SFAS 157 did not have a material impact on the Company s consolidated financial statements.

In February 2007, the FASB issued SFAS No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities Including an amendment of FASB Statement No. 115* (SFAS 159). Under SFAS 159, a company may choose, at specified election dates, to measure eligible items at fair value and report unrealized gains and losses on items for which the fair value option has been elected in earnings at each subsequent reporting date. Effective February 1, 2008, the Company adopted SFAS 159, but the Company has not elected the fair value option for any eligible financial instruments.

Business Concentrations and Credit Risk

The Company s business is concentrated in the United States and is dependant on discretionary consumer spending. Continued uncertainty or adverse changes in the economy could lead to additional significant declines in discretionary consumer spending, which, in turn, could result in further declines in the demand for the TiVo service and TiVo-enabled DVRs. As a result of the recent national and global economic downturn, overall consumer spending has declined. Retailers in North America appear to be taking a more conservative stance in ordering electronics inventory and consumers as well appear to be taking a more conservative stance in discretionary purchases, including TiVo DVRs and service subscriptions. Decreases in demand for the Company s products and services, particularly during the critical holiday selling season, could have an adverse impact on its operating results and financial condition. Uncertainty and adverse changes in the economy could also increase the risk of losses on the Company s investments, increase costs associated with developing and producing its products, increase TiVo s churn rate per month, increase the cost and decrease the availability of potential sources of financing, and increase the Company s exposure to losses from bad debts, any of which could have an adverse impact on the Company s financial condition and operating results.

Financial instruments that potentially subject the Company to a concentration of credit risk principally consist of cash, cash equivalents, short-term and long-term investments, and trade receivables. The Company currently invests the majority of its cash in U.S. Treasury Bills, U.S. Treasury funds, and money market funds and maintains them with two financial institutions with a high credit rating. As of April 30, 2009, the Company held approximately $5.0 million of investments with an auction reset feature (auction-rate securities), with a fair value of $3.7 million that are classified as long term assets. We have recorded an unrealized loss on these auction rate securities of $1.3 million. The Company has the intent and ability to hold these securities until their anticipated recovery. As part of its cash management process, the Company performs periodic evaluations of the relative credit ratings of these financial institutions and issuers of the securities the Company owns. The Company has not experienced significant credit losses on its cash, cash equivalents, or short-term and long-term investments. The Company is exposed to credit risk on its investments to the extent of the amount recorded on the condensed consolidated balance sheet at April 30, 2009.

The majority of the Company s customers are concentrated in the United States. The Company is subject to a minimal amount of credit risk related to service revenue contracts as these are primarily obtained through credit card sales. The Company sells its TiVo-enabled DVRs to retailers under customary credit terms and generally requires no collateral. The Company s accounts receivable concentrations as of April 30, 2009 and 2008 were as follows:

	As of April 30, 2009	2008
DIRECTV	21%	31%
Best Buy	17%	16%
Comcast	15%	13%
HTS/Seven	13%	0%
Other customers	34%	40%
Total accounts receivable	100%	100%

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The Company does not have a long-term written supply agreement with Broadcom, the sole supplier of the system controller for its DVR. In instances where a supply agreement does not exist and suppliers fail to perform their obligations, the Company may be unable to find alternative suppliers or deliver its products and services to its customers on time if at all.

The TiVo service is enabled through the use of a DVR manufactured for TiVo by a third-party contract manufacturer. The Company also relies on third parties with whom it outsources supply-chain activities related to inventory warehousing, order fulfillment, distribution, and other direct sales logistics. The Company cannot be sure that these parties will perform their obligations as expected or that any revenue, cost savings, or other benefits will be derived from the efforts of these parties. If any of these parties breaches or terminates their agreement with TiVo or otherwise fails to perform their obligations in a timely manner, the Company may be delayed or prevented from commercializing its products and services.

Recent Accounting Pronouncements

In April 2009, the FASB issued FSP FAS 107-1 and APB 28-1, *Interim Disclosure about Fair Value of Financial Instruments* (FSP FAS 107-1). FSP FAS 107-1 requires disclosures about fair value of financial instruments to be presented in both interim and annual reports. FSP FAS 107-1 becomes effective for the Company s reporting in the second quarter of fiscal 2010. The Company does not believe the adoption will have a material impact on its consolidated financial statements.

In April 2009, the FASB issued FSP FAS 115-2 and FAS 124-2, *Recognition and Presentation of Other-Than-Temporary Impairments,* (FSP FAS 115-2). FSP FAS 115-2 requires a company to recognize the credit component of an other-than-temporary impairment of a debt security in income and the non-credit component in accumulated other comprehensive income when the Company does not intend to sell the security and it is more likely than not the Company will not be required to sell the security prior to recovery. FSP FAS 115-2 also changes the threshold for determining when an other-than-temporary impairment has occurred with respect to intent and ability to hold until recovery and requires additional disclosures. FSP 115-2 is effective for the Company s interim reporting beginning in the second quarter of fiscal 2010. The Company does not believe the adoption will have a material impact on its consolidated financial statements.

In April 2009, the FASB issued FSP FAS 157-4, *Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly*. FSP FAS 157-4 provides additional guidance related to the estimation of fair value when the volume and level of activity for the asset or liability have significantly decreased, the identification of transactions that are not orderly, and the use of judgment in evaluating the relevance of inputs such as transaction prices. FSP FAS 157-4 is effective for the Company s interim reporting beginning in the second quarter of fiscal 2010. The Company does not anticipate the implementation of this new accounting standard will significantly change its valuation or disclosure of financial and nonfinancial assets and liabilities under the scope of FAS 157.

In April 2008, the FASB issued FASB Staff Position 142-3, *Determination of the Useful Life of Intangible Assets* , (FSP 142-3). FSP 142-3 amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset. The intent of the FSP is to improve the consistency between the useful life of a recognized intangible asset under FASB Statement No. 142, Goodwill and Other Intangible Assets (SFAS 142) and the period of expected cash flows used to measure the fair value of the asset. Specifically, the Company is required to use its own historical experience in renewing or extending the estimated life of an intangible asset as opposed to legal, regulatory or contractual provisions that enable renewal or extension of the asset s legal or contractual life without substantial cost. FSP 142-3 is effective for fiscal years and interim periods within those fiscal years beginning after December 15, 2008. Intangible assets acquired after February 1, 2009 are accounted for in accordance with SFAS 142, as amended by FSP 142-3. The Company does not believe the adoption will have a material impact on its consolidated financial statements.

3. INDEMNIFICATION ARRANGEMENTS AND GUARANTEES

Product Warranties

The Company s standard manufacturer s warranty period to consumers for TiVo-enabled DVRs is 90 days for parts and labor from the date of consumer purchase, and from 91-365 days for parts only, also known as the Limited Warranty. Within the limited warranty period, consumers are offered a no-charge exchange for TiVo-enabled DVRs returned due to product defect, within 90 days from the date of consumer purchase. Thereafter, consumers may exchange a TiVo-enabled DVR with a product defect for a charge. At April 30, 2009 and 2008, the accrued warranty reserve was $159,000 and $338,000, respectively. The Company s accrued warranty reserve is included in accrued liabilities in the accompanying condensed consolidated balance sheets.

Indemnification Arrangements

The Company undertakes indemnification obligations in its ordinary course of business. For instance, the Company has undertaken to indemnify its underwriters and certain investors in connection with the issuance and sale of its securities. The Company has also undertaken to indemnify certain customers and business partners for, among other things, the licensing of its products, the sale of its DVRs, and the provision of engineering and consulting services. Pursuant to these agreements, the Company may indemnify the other party for certain losses suffered or incurred by the indemnified party in connection with various types of claims, which may include, without limitation, intellectual property infringement, advertising and consumer disclosure laws, certain tax liabilities, negligence and intentional acts in the performance of services and violations of laws, including certain violations of securities laws with respect to underwriters and investors. The term of these indemnification obligations is generally perpetual. The Company s obligation to provide indemnification would arise in the event that a third party filed a claim against one of the parties that was covered by the Company s indemnification obligation. As an example, if a third party sued a customer for intellectual property infringement and the Company agreed to indemnify that customer against such claims, its obligation would be triggered.

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The Company is unable to estimate with any reasonable accuracy the liability that may be incurred pursuant to its indemnification obligations. A few of the variables affecting any such assessment include but are not limited to: the nature of the claim asserted; the relative merits of the claim; the financial ability of the party suing the indemnified party to engage in protracted litigation; the number of parties seeking indemnification; the nature and amount of damages claimed by the party suing the indemnified party; and the willingness of such party to engage in settlement negotiations. Due to the nature of the Company s potential indemnity liability, its indemnification obligations could range from immaterial to having a material adverse impact on its financial position and its ability to continue operation in the ordinary course of business.

Under certain circumstances, the Company may have recourse through its insurance policies that would enable it to recover from its insurance company some or all amounts paid pursuant to its indemnification obligations. The Company does not have any assets held either as collateral or by third parties that, upon the occurrence of an event requiring it to indemnify a customer, the Company could obtain and liquidate to recover all or a portion of the amounts paid pursuant to its indemnification obligations.

4. FAIR VALUE

SFAS 157 defines fair value as an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or a liability. SFAS 157 establishes a three-tier fair value hierarchy, which prioritizes the inputs used in the valuation methodologies in measuring fair value:

Level 1 - Observable inputs that reflect quoted prices (unadjusted) for identical assets or liabilities in active markets.

Level 2 - Include other inputs that are directly or indirectly observable in the marketplace.

Level 3 - Unobservable inputs which are supported by little or no market activity.

The fair value hierarchy also requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. The Company s cash equivalents and marketable securities are classified within Level 1, with the exception of the investments in auction rate securities. The Company s investments in auction rate securities are classified within Level 3 because they are valued using a discounted cash flow model. Some of the inputs to this model are unobservable in the market and are significant.

Assets and liabilities measured at fair value on a recurring basis as of April 30, 2009 were as follows:

		Asset and Liabilities Measured at Fair Value on a Recurring Basis		
	April 30, 2009	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:				
Money market funds	$ 134,091	$ 134,091	$	$
US Treasury Bills	$ 65,020	65,020		
Auction rate securities	$ 3,684			3,684
	$ 202,795	$ 199,111	$	$ 3,684

The following table is a reconciliation of financial assets measured at fair value using significant unobservable inputs (Level 3) during the three months ended April 30, 2009 (in thousands):

		Auction Rate Securities Three Months Ended April 30, 2009
Balance, beginning of period	$	3,944
Transfer into Level 3		
Total unrealized losses included in other comprehensive income		(260)
Balance, April 30, 2009	$	3,684

Marketable securities measured at fair value using Level 3 inputs are comprised of auction rate securities. Although auction rate securities would typically be measured using Level 2 inputs, the recent failure of auctions and the lack of market activity and liquidity required that these securities be measured using Level 3 inputs. The underlying assets of the Company s auction rate securities are collateralized primarily by student loans guaranteed by the U.S. government. The fair value of our auction rate securities was determined using a pricing model that market participants would use that considered projected cash flows for the issuing trusts, underlying collateral and expected yields. Projected cash flows were estimated based on the underlying loan principal, bonds outstanding, and payout formulas. The weighted-average life over which cash flows were projected considered the collateral composition of the securities and related historical and projected prepayments. The discount rates that were applied to the pricing model were based on market conditions and rates for comparable or similar term asset-backed securities as well as other fixed income securities.

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5. NET INCOME (LOSS) PER COMMON SHARE

Basic net income (loss) per common share is computed by dividing net income (loss) by the weighted average number of common shares outstanding, excluding unvested restricted stock.

The following table sets forth the computation of basic and diluted earnings per common share:

	Three Months Ended April 30, 2009	Three Months Ended April 30, 2008
	(In thousands, except per share amounts)	
Numerator:		
Net income (loss)	$ (4,129)	$ 3,616
Denominator:		
Weighted average shares outstanding, excluding unvested restricted stock	102,279	99,387
Weighted average effect of dilutive securities:		
Stock options and restricted stock		3,323
Denominator for diluted net income per common share	102,279	102,710
Basic net income (loss) per common share	$ (0.04)	$ 0.04
Diluted net income (loss) per common share	$ (0.04)	$ 0.04

The weighted average number of shares outstanding used in the computation of basic and diluted net income (loss) per share does not include the effect of the following potentially outstanding common stock. The effects of these potentially outstanding shares were not included in the calculation of diluted net loss per share because the effect would have been antidilutive:

	As of April 30, 2009	As of April 30, 2008
Unvested restricted stock outstanding	4,328,196	469,020
Options to purchase common stock	19,627,872	11,684,419
Total	23,956,068	12,153,439

6. PROPERTY AND EQUIPMENT, NET

Property and equipment, net consists of the following:

	April 30, 2009	January 31, 2009
	(In thousands)	
Furniture and fixtures	$ 3,599	$ 3,599
Computer and office equipment	16,884	16,559
Lab equipment	3,007	2,906
Leasehold improvements	8,485	8,482
Capitalized internal use software	15,606	14,624

Total property and equipment	47,581	46,170
Less: accumulated depreciation and amortization	(37,361)	(35,885)
Property and equipment, net	**$ 10,220**	**$ 10,285**

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7. PURCHASED TECHNOLOGY, CAPITALIZED SOFTWARE, AND INTANGIBLE ASSETS, NET

Purchased technology, capitalized software, and intangible assets, net consists of the following:

	April 30, 2009			January 31, 2009		
	Gross	Accumulated Amortization	Net	Gross	Accumulated Amortization	Net
	(In thousands)					
Purchased technology	$ 1,500	$ (1,457)	$ 43	$ 1,500	$ (1,333)	$ 167
Capitalized software	1,951	(1,673)	$ 278	1,951	(1,581)	$ 370
Intellectual property rights	18,115	(7,141)	$ 10,974	16,584	(6,524)	$ 10,060
Purchased technology, capitalized software, and intangible assets	**$ 21,566**	**$ (10,271)**	**$ 11,295**	**$ 20,035**	**$ (9,438)**	**$ 10,597**

8. COMMITMENT AND CONTINGENCIES

Legal Matters

Intellectual Property Litigation. On January 5, 2004, TiVo filed a complaint against EchoStar Communications Corporation in the U.S. District Court for the Eastern District of Texas alleging willful and deliberate infringement of U.S. Patent No. 6,233,389, entitled Multimedia Time Warping System. On January 15, 2004, the Company amended its complaint to add EchoStar DBS Corporation, EchoStar Technologies Corporation, and Echosphere Limited Liability Corporation as additional defendants. The Company alleges that it is the owner of this patent, and further alleges that the defendants have willfully and deliberately infringed this patent by making, selling, offering to sell and/or selling digital video recording devices, digital video recording device software, and/or personal television services in the United States. On April 13, 2006, the jury rendered a verdict in favor of the Company in the amount of approximately $74.0 million dollars. The jury ruled that the Company s patent is valid and that all nine of the asserted claims in the Company s patent are infringed by each of the accused EchoStar products. The jury also ruled that the defendants willfully infringed the patent. On September 8, 2006 the district court issued an Amended Final and Permanent injunction that prohibited EchoStar Communications Corporation from making, using, offering for sale or selling in the United States the following EchoStar DVRs: DP-501, DP-508, DP-510, DP-721, DP-921, DP-522, DP-625, DP-942, and all EchoStar Communications Corporation DVRs that are not more than colorably different from any of these products. On October 3, 2006, the United States Court of Appeals for Federal Circuit stayed the district court s injunction pending appeal. On January 31, 2008, the U.S. Court of Appeals for the Federal Circuit in Washington, D.C. unanimously ruled in favor of TiVo Inc. in connection with EchoStar s appeal of the district court judgment of patent infringement against EchoStar with respect to several claims (so called software claims) of the patent, upholding the full award of damages from the district court, and ordering that the stay of the district court s injunction against EchoStar s infringing digital video recorders that was issued pending appeal will dissolve when the appeal becomes final. The district court s judgment of infringement by EchoStar of certain other claims of the patent (so called hardware claims) were reversed and remanded for further proceedings. On October 6, 2008, the Supreme Court denied EchoStar s writ of certiorari. On October 8, 2008, the Company received $104.6 million from EchoStar of which approximately $87.8 million represents damages through September 8, 2006 and was recorded as litigation proceeds within the operating expense section of TiVo s statement of operations. The remaining approximately $16.8 million was recorded as interest income and represented pre- and post-judgment interest through October 8, 2008. With respect to the district court s injunction and damages after September 8, 2006, the district court held a hearing on EchoStar s alleged work around of the Company s patent on February 17, 2009. On June 2, 2009, the district court found EchoStar in contempt of its permanent injunction regarding EchoStar s on-going infringement of TiVo s U.S. Patent No. 6,233,389. The Court also awarded TiVo an additional $103,068,836 plus interest for EchoStar s continued infringement for the period from September 8, 2006 to April 18, 2008. The Court deferred ruling on the issue of monetary sanctions for contempt of the permanent injunction as well as certain other damages. On June 3, 2009, the United States Court of Appeals for the Federal Circuit temporarily stayed the district court s ruling pending the Appeal s Court consideration of TiVo s response to EchoStar s motion for stay pending appeal. The Company is incurring material expenses in this litigation.

On May 30, 2008, Dish Network Corporation and its related entities filed a complaint against TiVo in the U.S. District Court for the District of Delaware for declaratory relief that Dish s unspecified digital video recorders do not infringe TiVo s 389 patent. On July 7, 2008, TiVo filed a motion to dismiss Dish s complaint against TiVo for declaratory relief that Dish s unspecified DVRs do not infringe TiVo s 389 patent. On March 31, 2009, the court denied TiVo s motion to dismiss. On May 28, 2009, the court ordered the complaint transferred to the Eastern District of Texas. The Company intends to defend this action vigorously; however, the Company may incur material expenses in connection with this lawsuit and in the event there is an adverse outcome, the Company s business could be harmed. The Company may incur expenses in connection with this litigation that may become material in the future. No loss is considered probable or estimable at this time.

On April 29, 2005, EchoStar Technologies Corporation filed a complaint against TiVo and Humax USA, Inc. in the U.S. District Court for the Eastern District of Texas alleging infringement of U.S. Patent Nos. 5,774,186 (Interruption Tolerant Video Program Viewing), 6,529,685 B2 (Multimedia Direct Access Storage Device and Formatting Method), 6,208,804 B1 (Multimedia Direct Access Storage Device and Formatting Method) and 6,173,112 B1 (Method and System for Recording In-Progress Broadcast Programs). The complaint alleges that EchoStar Technologies Corporation is the owner by assignment of the patents allegedly infringed. The complaint further alleges that the TiVo and Humax have infringed, contributorily infringed and/or actively induced infringement of the patents by making, using, selling or importing digital video recording devices, digital video recording device software and/or personal television services in the United States that allegedly infringe the patents, and that such infringement is willful and ongoing. Under the terms of the Company s agreement with Humax governing the distribution of certain DVRs that enable the TiVo service, the Company is required to indemnify Humax against any claims, damages, liabilities, costs, and expenses relating to claims that the Company s technology infringes upon intellectual property rights owned by third parties. On May 10, 2005, Humax formally notified TiVo of the claims against it in this lawsuit as required by Humax s agreement with TiVo. On July 1, 2005, the defendants filed their answer and counterclaims. On May 10, 2006, the district court dismissed with prejudice, EchoStar s claim of infringement against TiVo and Humax relating to patent 112 (Method and System for Recording In-Progress Broadcast Programs) and claims 21-30 and 32 relating to patent 186 (Interruption Tolerant Video Program Viewing). A claim construction hearing was held on May 11, 2006. On July 14, 2006, the magistrate judge for the U.S. District Court for the Eastern District of Texas, issued a stay of the case pending the USPTO completion of proceedings with respect to TiVo s request for reexamination of the 186, 685, and 804 patents. The USPTO has preliminarily rejected each of the

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claims of the 186, 685, and 804 patents, but we cannot assure you that all of the patent claims ultimately will be rejected or that they will not be amended and emerge from the USPTO reexamination proceedings. The Company intends to defend this action vigorously; however, the Company is incurring expenses in connection with this lawsuit, which could become material in the future and in the event there is an adverse outcome, the Company s business could be harmed. No loss is considered probable or estimable at this time.

On December 22, 2008, Guardian Media Technologies, LTD filed a complaint against more than 30 companies including TiVo in the U.S. District Court for the Central District of California alleging infringement of U.S. Patent No. 4,930,158 (Selective Video Playing System) and 4,930,160 (Automatic Censorship of Video Programs). The complaint alleges that Guardian Media Technologies is the owner by assignment of the patents allegedly infringed. The complaint further alleges that prior to the expiration of the patents in 2007, TiVo had infringed, contributorily infringed and/or actively induced infringement of the 160 patent by making, having made, using, importing, providing, supplying, distributing, selling and/or offering for sale products and/or systems that infringed or, when used, infringed one or more claims of the patent. The Company intends to defend itself vigorously in this matter. The Company may incur expenses in connection with this litigation that may become material in the future. No loss is considered probable or estimable at this time.

Securities Litigation. The Company and certain of its officers and directors (TiVo defendants) were originally named as defendants in a consolidated securities class action lawsuit filed in the United States District Court for the Southern District of New York. This action, which is captioned Wercberger v. TiVo et al., also names several of the underwriters involved in the Company s initial public offering (IPO) as defendants. This class action is brought on behalf of a purported class of purchasers of the Company s common stock from the time of the Company s IPO (October 31, 1999) through December 6, 2000. The central allegation in this action is that the underwriters in the Company s IPO solicited and received undisclosed commissions from, and entered into undisclosed arrangements with, certain investors who purchased the Company s stock in the IPO and the after-market, and that the TiVo defendants violated the federal securities laws by failing to disclose in the IPO prospectus that the underwriters had engaged in these allegedly undisclosed arrangements. More than 300 issuers have been named in similar lawsuits. In February 2003, after the issuer defendants (including the TiVo defendants) filed an omnibus motion to dismiss, the Court dismissed the Section 10(b) claim as to the Company, but denied the motion to dismiss the Section 11 claim as to the Company and virtually all of the other issuer-defendants. On October 8, 2002, the Company s executive officers who were named as defendants in this action were dismissed without prejudice.

On June 26, 2003, the plaintiffs in the suit announced a proposed settlement with the Company and the other issuer defendants. This proposed settlement was terminated on June 25, 2007, following the ruling by the United States Court of Appeals for the Second Circuit on December 5, 2006, reversing the District Court s granting of class certification in the six focus cases currently being litigated in this proceeding. The proposed settlement had provided that the insurers of all settling issuers would guarantee that the plaintiffs recover $1 billion from non-settling defendants, including the investment banks who acted as underwriters in those offerings. The maximum amount that could be charged to the Company s insurance policy under the proposed settlement in the event that the plaintiffs recovered nothing from the investment banks would have been approximately $3.9 million.

On August 14, 2007, the plaintiffs filed Amended Master Allegations. On September 27, 2007, the Plaintiffs filed a Motion for Class Certification, which was subsequently withdrawn without prejudice by the plaintiffs. Defendants filed a Motion to Dismiss the focus cases on November 9, 2007. On March 26, 2008, the Court ruled on the Motion to Dismiss, holding that the plaintiffs had adequately pleaded their Section 10(b) claims against the Issuer Defendants and the Underwriter Defendants in the focus cases. As to the Section 11 claim, the Court dismissed the claims brought by those plaintiffs who sold their securities for a price in excess of the initial offering price, on the grounds that they could not show cognizable damages, and by those who purchased outside the previously certified class period, on the grounds that those claims were time barred. This ruling, while not binding on the Company s case, provides guidance to all of the parties involved in this litigation. On April 2, 2009, the parties lodged with the Court a motion for preliminary approval of a proposed settlement between all parties to the consolidated action, including the Company and its former officers and directors, as well as numerous other companies and their officers and directors. The proposed settlement provides the plaintiffs with $586 million in recoveries from all defendants, with $100 million being paid on behalf of the Issuer Defendants and their officers and directors by the Issuers insurers. Accordingly, any direct financial impact of the proposed settlement is expected to be borne by the Company s insurers. The proposed settlement also provides for full releases for the defendants, including the Company and its former officers and directors. The proposed settlement is subject to a hearing on fairness and approval by the Federal District Court overseeing the IPO Litigation and may potentially be subject to appellate review by United States Court of Appeals for the Second Circuit. The Company may incur expenses in connection with this litigation that may become material in the future. No loss is considered probable or estimable at this time.

On October 3, 2007, Vanessa Simmonds filed a complaint against the Company s former lead underwriters Credit Suisse Group and Bank of America (Lead Underwriters), with the Company named as a nominal defendant, in the U.S. District Court for the Western District of Washington alleging violations of Section 16(b) in connection with the Company s initial public offering and associated transactions in the Company s stock in the six month period following the Company s initial public offering by the Company s Lead Underwriters. On or about December 3, 2007, Ms. Simmonds delivered a copy of the complaint to the Company. The complaint itself is directed solely at the initial public offering underwriters, not at the Company itself, and does not seek any damages or recovery from the Company itself. On February 25, 2008, the plaintiff filed an amended complaint which is substantially similar to the initial complaint, but which also names Credit Suisse Securities (USA), Bank of America Corporation, and Robertson Stevenson, Inc. as defendants in the amended complaint that continues to name the Company only as a nominal defendant. On July 25, 2008, thirty of the issuers, including the Company (collectively, the Moving Issuers), in the coordinated proceeding filed a Joint Motion to Dismiss. Also on July 25, 2008, all of the underwriter defendants in the coordinated proceeding filed an Omnibus Motion to Dismiss. The hearing on the motions to dismiss was held on January 16, 2009. On March 12, 2009, the Court granted both the Issuers Joint Motion to Dismiss and the Underwriters Omnibus Motion to Dismiss. The Court held that the plaintiff s demand letters to the Moving Issuers were legally insufficient and therefore the plaintiff lacked standing to maintain the thirty Section 16(b) suits relating to the Moving Issuers. Accordingly, the Court granted without prejudice the Moving Issuers Joint Motion to Dismiss, and further held that it would not permit the plaintiff to amend her demand letters. In regard to the Underwriters Omnibus Motion to Dismiss, the Court held that the remaining twenty-four Section 16(b) suits were barred by the statute of limitations, and accordingly granted with prejudice the Omnibus Motion to Dismiss as to those suits. On March 31, 2009, plaintiff filed a notice of appeal to the United States Court of Appeals for the Ninth Circuit of the District Court s dismissal of these fifty-four actions. The Company may incur expenses in connection with this litigation that may become material in the future. No loss is considered probable or estimable at this time.

Other. In April 2008, the Attorney General of Missouri served TiVo Inc. with an investigative demand subpoena seeking information as to whether the Company has engaged in any unlawful merchandising practices in connection with its rebate program in the State of Missouri. The Company has been cooperating with the investigation. Should there be an adverse outcome, the Company s business could be harmed. No loss is considered probable or estimable at this time.

The Company is involved in numerous lawsuits and receives numerous threats of litigation in the ordinary course of its business. The Company assesses potential liabilities in connection with these lawsuits and threatened lawsuits under SFAS No. 5. The Company accrues an estimated loss for these loss contingencies if both of the following conditions are met: information available prior to issuance of the financial statements indicates that it is probable that a liability has been incurred at the date of the financial statements and the amount of loss can be reasonably estimated. As of April 30, 2009, the Company has not accrued any liability for any lawsuits filed against the Company, as the conditions for accrual have not been met. The Company expenses legal costs as they are incurred.

9. COMCAST AGREEMENT

On March 15, 2005, the Company entered into a non-exclusive licensing and marketing agreement with Comcast STB Software DVR, LLC (Comcast STB), a wholly-owned subsidiary of Comcast Corporation, and Comcast Corporation, as guarantor of Comcast STB s obligations under the agreement. The agreement was subsequently amended several times, most recently on March 27, 2008. The Company agreed to develop a TiVo service software solution for deployment on Comcast s DVR platforms In addition, the Company agreed to develop a TiVo Interactive Advertising Management System for deployment on Comcast platforms to enable the provision of local and national advertising to Comcast subscribers.

The initial term of this agreement expires on June 30, 2014. The agreement, as amended, provides for eight additional one-year renewal terms beyond the initial term with certain deployment thresholds beginning after June 30, 2019. Comcast has an option to purchase software maintenance and support. Comcast is entitled to a credit redeemable for ongoing development work that is based on a percentage of certain fees received by TiVo under the arrangement. Comcast will pay for any ongoing development work that exceeds the amount of the credit. Under the initial and subsequent Statements of Work (SOWs), subject to the attainment of specified deployment thresholds, Comcast is also entitled to recoup over time certain development fees paid to us through a mechanism effectively resulting in a reduction of certain subscription fees. TiVo will have the continuing right to sell certain types of advertising in connection with the TiVo service offered through Comcast, when such advertising features are developed. TiVo will also have a limited right to sell certain types of advertising on other Comcast platforms enabled with the TiVo advertising management system, subject to Comcast s option to terminate such right in exchange for certain advertising-related payments.

As part of this agreement, Comcast received a non-exclusive, non-transferable license to our intellectual property in order to deploy the TiVo service software solution and advertising management system, including certain trademark branding rights and a covenant not to assert under TiVo s patents, which rights extend only to Comcast Corporation, its affiliates, and certain of its vendors and suppliers with respect to Comcast products and services. Such non-exclusive, non-transferable license to the Company s intellectual property will, under certain circumstances, continue after the termination of this agreement. In addition, Comcast is entitled to certain most favored customer terms as compared with other multi-channel video distributors who license certain TiVo technology. Pursuant to the terms of this agreement, Comcast has the right to terminate the agreement in the event the Company is the subject of certain change of control transactions involving any of certain specified companies. Acceptance of the delivery of the TiVo service software solution by Comcast occurred on June 27, 2007 and the TiVo service has launched in its initial market. Comcast accepted the TiVo advertising management system on March 31, 2008.

During the three months ended April 30, 2009 and 2008, the Company recognized $4.8 million and $4.0 million, respectively in technology revenues and $3.3 million and $2.7 million, respectively in cost of technology revenues, related to the initial development under the original agreement and related to additional engineering work under a SOW entered into on August 27, 2007 for the development of additional releases of the TiVo-branded, TiVo-service enabling software for the Comcast DVR platforms and to enable such software on other Comcast DVR platforms, including Cisco DVRs. The Company recognizes revenues and costs for the initial development of TiVo service software and TiVo Interactive Advertising Management System based on a zero profit model, which resulted in the recognition of equal amounts of revenues and costs. The engineering work performed under the August 2007 SOW is considered a separate arrangement and revenue from this engineering work is recognized using the percentage-of-completion method subsequent to signing the agreement on August 27, 2007.

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10. DEVELOPMENT AGREEMENT AND SERVICES AGREEMENT WITH DIRECTV, INC.

On September 3, 2008, the Company extended its current agreement with DIRECTV for the development, marketing, and distribution of a new HD DIRECTV DVR featuring the TiVo ® service. Under the terms of this non-exclusive arrangement, TiVo expects to develop a version of the TiVo service for DIRECTV s broadband-enabled HD DVR for a launch to consumers as soon as possible in calendar year 2010. DIRECTV also has certain additional annual obligations to market and promote the new HD DIRECTV DVR featuring the TiVo Service once it has launched. DIRECTV, upon the deployment of high definition DIRECTV DVRs with TiVo service, is entitled to recoup, over time, a portion of certain development fees through a reduction in certain subscription fees. The new agreement also extends the mutual covenant not to sue with respect to each company s products and services throughout the term of the new agreement.

Under this new agreement, DIRECTV will pay a substantially higher monthly fee for households using the new high definition DIRECTV DVRs with TiVo (when and if the new version of the TiVo service is deployed) than the fees for previously deployed DIRECTV DVRs with TiVo service. DIRECTV will continue to pay the current monthly fee for all households using only the previously deployed DIRECTV DVRs with TiVo service. The fees paid by DIRECTV are subject to monthly minimum payments that escalate during the term of the agreement starting in 2010 and those minimum payments are substantially higher than in the prior agreement. The Company will continue to defer a portion of these fees as a non-refundable credit to fund mutually agreed development, with excess development work to be funded by DIRECTV. During the quarter, we signed the TiVo Experience Solution SOW. Due to uncertainties over the ultimate profit margin on the development work, the Company recognizes revenues and costs for the development of the TiVo service for DIRECTV s broadband-enabled HD DVR based on a zero profit model, which results in the recognition of equal amounts of revenues and costs. During the three months ended April 30, 2009, the Company recognized $1.0 million in technology revenues and $1.0 million in cost of technology revenues related to the development of the TiVo service for DIRECTV s broadband-enabled HD DVR.

11. COMPREHENSIVE INCOME (LOSS)

The components of comprehensive income (loss) are as follows:

	Three Months Ended April 30, 2009	2008
	(In thousands)	
Net income (loss)	$ (4,129)	$ 3,616
Other comprehensive income (loss):		
Unrealized loss on marketable securities	(250)	(704)
Comprehensive income (loss)	$	