

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)

**AMENDED BILL OF COSTS FOR PLAINTIFF TIVO INC.**

TO THE HONORABLE DAVID FOLSOM AND THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS, MARSHALL DIVISION:

TiVo Inc., plaintiff and prevailing party in the above-captioned cause of action, moves the Clerk for the taxation of costs as set forth in the amended Bill of Costs. The Court entered judgment in favor of TiVo Inc. and ordered costs be awarded in an amount taxed by the Clerk. On August 30, 2006, TiVo filed its Bill of Costs. TiVo respectfully submits this amended Bill of Costs to correct certain mathematical errors as well as amend certain costs requested to be taxed. The detailed costs and supporting documentation are set forth in Exhibits A – D.

Attached hereto as Exhibits A & B are the invoices for the “fees of the court reporter” for trial, hearing and deposition transcription.

The trial and hearing transcription costs (Exhibit A) requested to be taxed, unchanged from the initial filing, are as follows:

<i><b>Transcript Fees</b></i>	<i><b>Date</b></i>	<i><b>Fee</b></i>
Hearing Transcript	02/27/06	1097.00
Trial Transcripts	03/29/06 – 04/13/06	20,300.00
Daily Trial Transcripts		6,000.00
Bench Trial Transcripts and Transcripts of Motions Hearing	06/26/06 – 06/28/06	5,680.00
<b>TOTAL</b>		<b>33077.00</b>

Attached hereto as Exhibit B are the invoices for the recording by stenographic means of the depositions necessary to the preparation of the case.<sup>1</sup> Where video of a deposition was actually played at a trial, the costs for the video are included as well. The depositions costs requested to be taxed are as follows:

<b>Deposition Witnesses</b>	<b>Date</b>	<b>Transcript Fees</b>	<b>Video Fees</b>	<b>Total Fees</b>
Barton Vol. I	04-13-2005	561.80		561.80
Barton Vol. II	06-30-2005	422.50		422.50
Bazata	04-06-2005	851.80		851.80
Beals	06-17-2005	1,888.35	1,183.50	3,071.85
Becking	10-12-2005	269.15	248.75	517.90
Cannon	10-12-2005	264.60	342.50	607.05
Cavanaugh	07-01-2005	354.90		354.90
Darby	07-01-2005	260.05		260.05
Denny	06-08-2005	235.60		235.60
Eber	07/06/2005	475.30		475.30
Ergen	09-08-2005	1,233.30		1,233.30
Gambrell	08-10-2005	1,378.20		1,378.20
Gerolimatos	07-08-2005	170.10		170.10
Gibson Vol. I	08-03-2005	404.00		404.00
Gibson Vol. II	08-16-2005	768.15		768.15
Gibson Vol. III	09-15-2005	1,108.70		1,108.70
Gibson Vol. IV	03-22-2006	58.00		58.00
Glenn	05-04-2005	565.40		565.40
Gordon Vol. I	08-08-2005	387.35		387.35
Gordon Vol. II	08-08-2005	729.10		729.10
Gordon Vol. III	08-12-2005	426.70		426.70
Greene	07-06-2005	71.40		71.40
Hauser	08-09-2005	593.50		593.50
Hawkey	05-05-2005	1,253.60		1,253.60
Ho	06/10/2005	754.10		754.10
Innes	06-23-2005	557.60	375.50	933.10
Jackson	05-10-2005	1,546.30		1,546.30
Johnson, J.	07-06-2005	210.35	188.00	398.35
Johnson, M.	08-05-2005	1,391.80		1,391.80
Landreth	09-20-2005	1,325.65		1,365.65
Lichty	06-23-2005	557.60		557.60
Lynde Vol. I	08-12-2005	1,485.40		1,485.40
Lynde Vol. II	08-26-2005	2,367.03		2,367.03
MacLeod	04-07-2005	492.30		492.30

<sup>1</sup> Exhibit B is unchanged from the initially filed version except that duplicate charges are removed, typographical errors are corrected, and one deposition (Storer Vol. III) is added.

<b>Deposition Witnesses</b>	<b>Date</b>	<b>Transcript Fees</b>	<b>Video Fees</b>	<b>Total Fees</b>
Mally	07-01-2005	143.85		143.85
Miller	07-06-2005	636.60		636.30
Minnie I	04-05-2005	692.05		692.05
Minnie Vol. II	04-06-2005	647.05		647.05
Minnie Vol. III	07-06-2005	264.60		264.60
Moskowitz	07-01-2005	292.20		292.20
Newby	07-13-2005	.00		.00
Okubo	05-24-2005	478.15		478.15
Orban	06-30-2005	909.40		909.40
Pattison	07-01-2005	437.50		437.50
Polish Vol. I	08-31-2005	2,155.45		2,155.45
Polish Vol. II	09-01-2005	2,136.85		2,136.85
Ramsay Vol. I	07/08/2005	641.00		641.00
Ramsay Vol. II	07-27-2005	220.30		220.30
Rayner	04-08-2005	396.75		396.75
Reader	05-13-2005	1,471.05		1,471.05
Rhyne Vol. I	08-25-2005	1,964.80		1,964.80
Rhyne Vol. II	08-26-2005	1,417.30		1,417.30
Rhyne Vol. III	10-06-2005	686.15		686.15
Sheridan	08-11-2005	1,452.60		1,452.60
St. John-Larkin	06-29-2005	410.45		410.45
Storer Vol. I	09-13-2005	1,512.30		1,512.30
Storer Vol. II	09-14-2005	1,151.60		1,151.60
Storer Vol. III	03-21-2006	384.04		384.04
Sucharda	07-01-2005	305.20	365.00	670.20
Templeman	04-05-2005	780.30	86.00	866.30
Ugone Vol. I	08-08-2005	1,045.65		1,045.65
Ugone Vol. II	08-25-2005	1,338.35		1,338.35
VanGelder Vol. I	04-06-2005	321.40		321.40
VanGelder Vol. II	07-01-2005	502.85		502.85
West	06-30-2005	541.00		541.00
Wong	06-14-2005	1,510.40		1,510.40
Xu	06-22-2005	1,256.90		1,256.90
Zetterower	06-02-2005	1,276.35		1,276.35
<b>TOTAL</b>				<b>57,629.02</b>

Attached hereto as Exhibit C are the invoices for claimed costs of “exemplification and copies of papers necessarily obtained for use in the case.” These include the expense of preparation of hard copies and electronic imaging of trial exhibits and depositions for the Court, opposing counsel, witnesses, and TiVo Inc.’s counsel during trial; the costs for copying and processing the over 100,000 pages of documents produced in discovery; and the expense of courtesy copies and service copies of pleadings filed in this case. The costs requested to be taxed are as follows:

<b>Trial Exhibits</b>	<b>Date</b>	<b>Invoice #</b>	<b>Fee</b>
JURY TRIAL - Copying Cost for 6 Sets of Trial Exhibits (2 Provided to the Court, 1 Provided to Opposing Counsel Before trial, 1 for Witnesses During Trial, 1 for Opposing Counsel During trial, 1 For Examining Attorney During Trial) (109,740 Pages Per Set @ 15 cents per page)	03/29/06– 04/11/06	N/A	98,766.00
BENCH TRIAL - Copying Cost for 6 Sets of Trial Exhibits (2 Provided to the Court, 1 Provided to Opposing Counsel Before trial, 1 for Witnesses During Trial, 1 for Opposing Counsel During trial, 1 For Examining Attorney During Trial) (8,202 Pages Per Set @ 15 cents per page)	06/26/06– 06/28/06	N/A	7,381.80
Trial Video Deposition Editing (as required by March 3, 2005 Scheduling Order)	10/19/05 11/18/05 12/20/05 01/23/06 02/20/06 03/16/06 04/10/06 04/30/06 07/02/06	7111739 7112631 7113453 7114435 7115141 7115980 7116677 7117465 7120080	54,825.63
Scanning Trial Exhibits & Copies	11/18/05 02/20/06 03/16/06 04/30/06	7112631 7115141 7115980 7117465	30,671.68
Discovery Produced (110,000 pages @ 15 cents per page)		N/A	16,500.00
Filed Documents (Courtesy Copy and Service Copy) (11390 pages @ 15 cents per page)		N/A	1,708.50
Processing Costs for Electronic Discovery Produced	04/29/05 05/18/05	2504017 2505017	600.00 12,322.42
<b>TOTAL</b>			<b>222,776.03</b>

Attached hereto as Exhibit D are the invoices for "fees for witnesses." These include the expenses incurred for expert witnesses testifying at deposition and trial. TiVo is requesting that the Court tax costs for travel and other expenses, including where appropriate the statutory per diem (\$99/day) for lodging and meals. The witnesses' expenses requested to be taxed are as follows:

<b>Expenses Incurred by Expert Witnesses</b>			
<b>Name</b>	<b>Dates</b>	<b>Invoice #</b>	<b>Expenses (airline, car, lodging, meals and incidentals)</b>
<b>Depositions</b>			
Alan H. Gordon	8/7/05-8/12/05	305583	1,163.21
James A. Storer	9/12/05-9/14/05 3/20/06-3/21/06	7111302	5,299.50
Keith R. Ugone	8/6/05-8/8/05 8/23/05-8/25/05	N/A	3,940.72
<b>Jury Trial</b>			
Jerry D. Gibson	3/24/06-4/1/06	N/A	2,299.20
Alan H. Gordon	4/2/06-4/5/06	305750	432.86
James A. Storer	4/3/06-4/12/06	7117410	2,929.42
<b>Bench Trial</b>			
Alan H. Gordon	6/24/06-6/26/06	305756	1,173.97
James A. Storer	6/24/06-6/28/06	7119698	2,729.10
<b>Total</b>			<b>19,967.98</b>

TiVo also requests \$150.00 in docket fees under 28 U.S.C. 1923.

In sum, TiVo Inc. respectfully requests that costs of \$333,600.03 be taxed as enumerated and that these costs be included in the judgment entered in this case.

DATED: September 22, 2006

Respectfully submitted,

By: /s/ Alexander C.D. Giza

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**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing document was served on all parties by electronic filing and service on this the 22nd day of September 2006.

/s/ Alexander C.D. Giza

Alexander C.D. Giza