

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

TIVO INC.,

Plaintiff,

vs.

**ECHOSTAR COMMUNICATIONS
CORPORATION, et al.,**

Defendants.

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CIVIL ACTION NO. 2:04-CV-01 (DF)

ORDER

Before the Court is EchoStar's Emergency Motion to Compel. Dkt. No. 872. Also before the Court are TiVo's response and EchoStar's reply. Dkt. No. 875 & 876. Because TiVo's expert disclosures are due on December 24 and will likely cure any prior deficiency, this Court **DISMISSES WITHOUT PREJUDICE** EchoStar's Motion to Compel. EchoStar may renew its motion at a later date if it still believes that TiVo's disclosures are somehow deficient.

SIGNED this 23rd day of December, 2008.



DAVID FOLSOM
UNITED STATES DISTRICT JUDGE