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

| | | |
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| **TIVO, INC.,** | § | |
| | § | |
| **Plaintiff,** | § | **CIVIL ACTION NO. 2:09-CV-257 (DF)** |
| **vs.** | § | |
| | § | |
| **VERIZON COMMUNICATIONS, INC.,VERIZON SERVICES CORP., and VERIZON CORPORATE RESOURCES GROUP, LLC,** | § | |
| | § | |
| **Defendants.** | § | |

## CLAIM CONSTRUCTION ORDER

Before the Court is Tivo, Inc.'s ("Tivo's") Opening Claim Construction Brief. Dkt. No. 139. Also before the Court are Verizon's Responsive Claim Construction Brief and Tivo's Reply Claim Construction Brief. Dkt. Nos. 145 and 151, respectively. The Court held a claim construction hearing on disputed terms in Tivo's patents on June 1, 2011. *See* Dkt. No. 176.

Before the Court is Verizon's Opening Claim Construction Brief. Dkt. No. 138. Also before the Court are Tivo's Response Claim Construction Brief and Verizon's Reply Claim Construction Brief. Dkt. Nos. 143 and 152, respectively. The Court held a claim construction hearing on disputed terms in Verizon's patents on June 2, 2011. *See* Dkt. No. 178.

Having considered the briefing, oral arguments of counsel, and all relevant papers and pleadings, the Court construes the disputed claim terms as set forth herein.

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## I. Background

Tivo alleges infringement of United States Patent Nos. 6,233,389 ("the '389 Patent"); 7,493,015 ("the '015 Patent"); and 7,529,465 ("the '465 Patent") (collectively, the "Tivo Patents"). The '465 Patent is a continuation of a continuation of the '389 Patent and both share a common specification. The '389 Patent is titled "Multimedia Time Warping System." The '465 Patent is titled "System for Time Shifting Multimedia Content Streams." The '015 Patent is titled "System for Time Shifting Multimedia Content Streams." Certain claim terms in the TiVo Patents were previously construed by this Court in *Tivo Inc. v. Echostar Communications Corp.*, Civ. Act. No. 2:04-cv-1, Dkt. No. 185 (hereinafter "*Echostar* CC Order") and in *Tivo Inc. v. AT&T Inc.*, Civ. Act. No. 2:09-cv-259, Dkt. No. 210 (hereinafter "*AT&T* CC Order") .

Verizon alleges infringement of United States Patent Nos. 5,410,334 ("the '334 Patent"); 5,635,979 ("the '979 Patent"); 5,973,684 ("the '684 Patent"); 6,367,078 ("the '078 Patent); and 6,381,748 ("the '748 Patent") (collectively, "the Verizon Patents"). Verizon previously asserted United States Patent No. 7,561,214 against Tivo, but that patent was dismissed from the case on May 19, 2011. Dkt. No. 171. The '344 Patent is titled "Apparatus and Method of Selecting Video Programs Based on Viewers' Preferences." The '979 Patent is titled "Dynamically Programmable Digital Entertainment Terminal Using Downloaded Software to Control Broadband Data Operations." The '684 Patent is titled "Digital Entertainment Terminal Providing Dynamic Execution in Video Dial Tone Networks." The '078 Patent is titled "Electronic Program-Guide System with Sideways-Surfing Capability." The '748 Patent is titled "Apparatus and Methods for Network Access Using a Set Top Box and Television."



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