

Daniel Sadeh, Esq.  
**HALPER SADEH LLP**  
375 Park Avenue, Suite 2607  
New York, NY 10152  
Telephone: (212) 763-0060  
Facsimile: (646) 776-2600  
Email: sadeh@halpersadeh.com

*Counsel for Plaintiff*

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

CRAIG HENNING,

Plaintiff,

v.

TIVO CORPORATION, JAMES E.  
MEYER, RAGHAVENDRA RAU,  
LAURA J. DURR, ALAN L. EARHART,  
EDDY W. HARTENSTEIN, DAN  
MOLONEY, DAVE SHULL, GLENN W.  
WELLING, and LORIA B. YEADON,

Defendants.

Case No:

JURY TRIAL DEMANDED

Plaintiff Craig Henning (“Plaintiff”), by Plaintiff’s undersigned attorneys, for Plaintiff’s complaint against Defendants (defined below), alleges the following based upon personal knowledge as to Plaintiff and Plaintiff’s own acts, and upon information and belief as to all other matters, based upon, *inter alia*, the investigation conducted by and through Plaintiff’s attorneys.

**NATURE OF THE ACTION**

1. This is an action against TiVo Corporation (“TiVo” or the “Company”), and its Board of Directors (the “Board” or the “Individual Defendants”) for their violations of Sections 14(a) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. §§ 78n(a) and 78t(a), and Rule 14a-9 promulgated thereunder by the SEC, 17 C.F.R. § 240.14a-9, in

connection with the proposed acquisition (the “Proposed Transaction”) of TiVo by Xperi Corporation (“Xperi”), XRAY-TWOLF HoldCo Corporation, XRAY Merger Sub Corporation, and TWOLF Merger Sub Corporation.

### **JURISDICTION AND VENUE**

2. The claims asserted herein arise under and pursuant to Sections 14(a) and 20(a) of the Exchange Act (15 U.S.C. §§ 78n(a) and 78t(a)) and Rule 14a-9 promulgated thereunder by the SEC (17 C.F.R. § 240.14a-9).

3. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331, and Section 27 of the Exchange Act, 15 U.S.C. § 78aa.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)) as a substantial portion of the transactions and wrongs complained of herein had an effect in this District, the alleged misstatements entered and the subsequent damages occurred in this District, and the Company conducts business in New York City.

5. In connection with the acts, conduct and other wrongs alleged in this complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including but not limited to, the United States mails, interstate telephone communications and the facilities of the national securities exchange.

### **PARTIES**

6. Plaintiff is, and has been at all relevant times hereto, an owner of TiVo’s common stock.

7. Defendant TiVo provides media and entertainment products for the consumer entertainment industry worldwide. The Company is incorporated in Delaware and maintains

offices at 155 West 23<sup>rd</sup> Street, Suite 1200, New York, NY 10011. The Company's common stock trades on the Nasdaq Global Select Market ("NASDAQ") under the ticker symbol, "TIVO."

8. Defendant James E. Meyer ("Meyer") is Chairman of the Board of the Company.
9. Defendant Raghavendra Rau ("Rau") is Vice Chairman of the Board of the Company.
10. Defendant Laura J. Durr ("Durr") is a director of the Company.
11. Defendant Alan L. Earhart ("Earhart") is a director of the Company.
12. Defendant Eddy W. Hartenstein ("Hartenstein") is a director of the Company.
13. Defendant Dan Moloney ("Moloney") is a director of the Company.
14. Defendant Dave Shull ("Shull") is President, Chief Executive Officer, and a director of the Company.
15. Defendant Glenn W. Welling ("Welling") is a director of the Company.
16. Defendant Loria B. Yeadon ("Yeadon") is a director of the Company.
17. Defendants Meyer, Rau, Durr, Earhart, Hartenstein, Moloney, Shull, Welling, and Yeadon are collectively referred to herein as the "Individual Defendants."
18. Defendants TiVo and the Individual Defendants are collectively referred to herein as the "Defendants."

#### **OTHER RELEVANT ENTITIES**

19. Xperi, through its subsidiaries, creates, develops, and licenses audio, imaging, semiconductor packaging, and interconnect technologies in the United States and internationally. Xperi is incorporated in Delaware with principal executive offices located in San Jose, California. Xperi's common stock trades on the NASDAQ under the ticker symbol, "XPER."

**SUBSTANTIVE ALLEGATIONS**

**A. The Proposed Transaction**

20. On December 19, 2019, TiVo and Xperi announced that they had entered into a definitive agreement to combine in an all-stock transaction. Under the terms of the merger agreement, the shares of TiVo and Xperi stockholders would be converted into the shares of the new parent company based on a fixed exchange ratio of 0.455 Xperi share per existing TiVo share. According to the announcement, upon completion of the merger, Xperi stockholders would own approximately 46.5% and TiVo stockholders would own approximately 53.5% of the new parent company on a fully diluted basis. The press release announcing the proposed merger states, in pertinent part:

**Xperi and TiVo to Combine, Creating a Leader in Consumer & Entertainment Technology and IP Licensing**

*Combination significantly enhances the scale and reach for each business, provides opportunity for both revenue synergies and cost savings*

*Combined product businesses will offer highly differentiated solutions for home, automotive, and mobile markets*

*Strengthens and diversifies IP licensing businesses to drive strong, recurring cash flow and long-term value creation*

December 19, 2019 07:00 AM Eastern Standard Time

SAN JOSE, Calif.--(BUSINESS WIRE)--Xperi Corporation (Nasdaq: XPER) and TiVo Corporation (Nasdaq: TIVO) today announced they entered into a definitive agreement to combine in an all-stock transaction, representing approximately \$3 billion of combined enterprise value. The transaction creates a leading consumer and entertainment technology business and one of the industry's largest intellectual property (IP) licensing platforms with a diverse portfolio of entertainment and semiconductor intellectual property.

\* \* \*

In light of the business combination, TiVo has suspended its near-term plans to separate its product and IP businesses. Upon closing of the transaction, each

company's respective product and IP businesses will be integrated and operated as separate IP licensing and product business units. This will facilitate a potential separation of the combined businesses at a later date.

David Shull said, "TiVo's management team and board have engaged in a comprehensive review of TiVo's businesses over the past year, and we are confident that this combination with Xperi is the right path forward for all our stakeholders. While we previously planned to separate our product and IP licensing businesses in April 2020, we believe today's combination with Xperi will enable us to create even more value for our shareholders in both the near and long term by allowing each to go to market with greater financial and operational scale."

### **Transaction Details**

Under the terms of the merger agreement, the shares of TiVo and Xperi stockholders will be converted into the shares of the new parent company based on a fixed exchange ratio of 0.455 Xperi share per existing TiVo share. Upon completion of the merger, Xperi stockholders will own approximately 46.5% and TiVo stockholders will own approximately 53.5% of the new parent company on a fully diluted basis.

In connection with the transaction each company's debt will be refinanced on a combined basis. To meet this objective, the companies have secured \$1.1 billion of committed financing from Bank of America and Royal Bank of Canada.

### **Management and Board of Directors**

Following the completion of the transaction, Xperi's Chief Executive Officer, Jon Kirchner, will serve as Chief Executive Officer of the new parent company and Xperi's CFO, Robert Andersen, will serve as Chief Financial Officer. TiVo's Chief Executive Officer, David Shull, will continue as a strategic advisor to ensure a successful integration.

The Board of Directors of the new parent company will consist of seven directors, including Xperi CEO Jon Kirchner, in addition to three directors appointed by Xperi and three directors appointed by TiVo. The Chair of the Board will be selected by the independent directors of the Board.

The new parent company will assume the Xperi name but will continue to provide entertainment services under the TiVo brand, alongside Xperi's premium DTS®, HD Radio®, and IMAX® Enhanced brands. The company will be headquartered in San Jose, California.

### **Timing and Approvals**

This transaction has been approved by the Boards of Directors of both companies and is expected to close during the second quarter of 2020, subject to regulatory approvals, the approval by the shareholders of each company, and other customary closing conditions.

### **NOL Rights Plan**

Concurrent with the approval of this transaction, TiVo's Board approved the adoption of a Stockholder Rights Plan (the NOL Rights Plan) designed to protect TiVo's \$1 billion federal Net Operating Losses (NOLs) from the effect of Section 382 under the US Internal Revenue Code, which can limit the use of the NOLs. The completion of the TiVo deal would move TiVo closer to the 50 percent ownership change outlined in Section 382 and increase the risk of a loss of TiVo's valuable NOLs. TiVo believes that its tax attributes represent an important corporate asset that can provide long-term stockholder benefits and should be protected. The NOL Rights Plan is similar to those adopted by numerous other public companies with significant tax assets. The NOL Rights Plan is set to expire at the earlier of completion or termination of the TiVo transaction.

### **Advisors**

Centerview Partners, LLC served as exclusive financial advisor to Xperi and Skadden, Arps, Slate, Meagher & Flom LLP served as legal advisor. LionTree Advisors LLC served as exclusive financial advisor to TiVo and Cooley LLP served as legal advisor.

21. On February 18, 2020, Defendants caused to be filed with the SEC a Form S-4 Registration Statement under the Securities Act of 1933 (the "Registration Statement") in connection with the Proposed Transaction.

### **B. The Registration Statement Contains Materially False and Misleading Statements and Omissions**

22. The Registration Statement, which recommends that TiVo shareholders vote in favor of the Proposed Transaction, omits and/or misrepresents material information concerning: (i) the Company's, Xperi's, and the combined company's financial projections; (ii) the financial analyses performed by the Company's financial advisor, LionTree Advisors LLC ("LionTree"), in connection with its fairness opinion; (iii) the sales process leading up to the Proposed Transaction; and (iv) potential conflicts of interest involving LionTree.

23. The omission of the material information (referenced below) renders the following sections of the Registration Statement false and misleading, among others: (i) Background of the Mergers; (ii) Recommendation of the TiVo Board of Directors; (iii) TiVo's Reasons for the Mergers; (iv) Opinion of TiVo's Financial Advisor; and (v) Financial Forecasts.

24. Unless and until the material misstatements and omissions (referenced below) are remedied before the anticipated shareholder vote, TiVo shareholders will be forced to make a voting decision on the Proposed Transaction without full disclosure of all material information. In the event the Proposed Transaction is consummated, Plaintiff may seek to recover damages resulting from Defendants' misconduct.

**1. Material Omissions Concerning the Company's, Xperi's, and the Combined Company's Financial Projections**

25. The Registration Statement omits material information concerning the Company's, Xperi's, and the combined company's financial projections.

26. The Registration Statement provides that, "[i]n connection with the evaluation of the mergers . . . TiVo management prepared unaudited prospective financial information for TiVo on a stand-alone basis, without giving effect to the mergers, and also prepared unaudited prospective financial information for Xperi on a stand-alone basis, based on the projections provided by Xperi as adjusted by TiVo management, without giving effect to the mergers, and estimated synergies arising in connection with the mergers" (the "TiVo Projections").

27. The Registration Statement, however, fails to disclose the following concerning the TiVo Projections: (1) all line items used to calculate (i) Adjusted EBITDA, and (ii) Billings; and (2) a reconciliation of all non-GAAP to GAAP metrics.

28. The Registration Statement provides that, "[i]n connection with the Xperi board's review of the mergers, Xperi management also prepared . . . unaudited prospective financial

information [of Xperi, Xperi's IP Licensing Business, Xperi's Product Licensing Business, and Xperi's New Product Line] to facilitate its review of the mergers and consideration of strategic alternatives to the mergers" (the "Xperi Projections").

29. The Registration Statement, however, fails to disclose the following concerning the Xperi Projections: (1) all line items used to calculate (i) Billings, (ii) Adjusted EBITDA, and (iii) Unlevered Free Cash Flow; and (2) a reconciliation of all non-GAAP to GAAP metrics.

30. The Registration Statement provides that "[i]n connection with Xperi's consideration of the mergers, TiVo's management provided Xperi with summary selected unaudited prospective financial information for calendar years ending 2020 through 2022 for each of TiVo's product business and TiVo's IP licensing business, which we refer to as the TiVo forecasts." The Registration Statement further provides that "[a]fter a review of the TiVo forecasts, Xperi management prepared an alternative version of the TiVo forecasts for the years 2020 through 2022, and constructed further forecasts for the years 2023 and 2024 for each of TiVo's product business and IP licensing business, based on Xperi's due diligence investigation of TiVo and other matters deemed appropriate by Xperi management relating to TiVo's business and operations. . . refer[red] to . . . as the adjusted TiVo forecasts."

31. The Registration Statement, however, fails to disclose the following concerning the TiVo forecasts and the adjusted TiVo forecasts: (1) all line items used to calculate (i) Adjusted EBITDA, (ii) EBIT (post-stock based compensation); and (iii) Unlevered Free Cash Flow; and (2) a reconciliation of all non-GAAP to GAAP metrics.

32. The Registration Statement provides that "Xperi management prepared unaudited prospective financial information that combined Xperi management forecasts for Xperi scenario A, . . . the adjusted TiVo forecasts and the TiVo NOL forecasts, taking into account estimated



synergies, which we refer to as the unaudited pro forma combined forecasts.”

33. The Registration Statement, however, fails to disclose the following concerning the unaudited pro forma combined forecasts: (1) all line items used to calculate (i) Billings, and (ii) Adjusted EBITDA; and (2) a reconciliation of all non-GAAP to GAAP metrics.

34. When a company discloses non-GAAP financial metrics in a Registration Statement that were relied upon by its board in recommending that shareholders exercise their corporate suffrage rights in a particular manner, the company must also disclose all projections and information necessary to make the non-GAAP metrics not misleading, and must provide a reconciliation (by schedule or other clearly understandable method) of the differences between the non-GAAP financial metrics disclosed or released with the most comparable financial metrics calculated and presented in accordance with GAAP. 17 C.F.R. § 244.100. The SEC has increased its scrutiny of a company’s use of non-GAAP financial measures as such measures can be misleading and “crowd out” more reliable GAAP information.<sup>1</sup>

35. The disclosure of the Company’s, Xperi’s, and the combined company’s projected financial information is material because it would provide the Company’s shareholders with a basis to project the future financial performances of the Company and the combined company and would allow shareholders to better understand the financial analyses performed by the Company’s financial advisor in support of its fairness opinion. Shareholders cannot hope to replicate

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<sup>1</sup> Mary Jo White, *Keynote Address, International Corporate Governance Network Annual Conference: Focusing the Lens of Disclosure to Set the Path Forward on Board Diversity, Non-GAAP, and Sustainability* (June 27, 2016), <https://www.sec.gov/news/speech/chair-white-icgn-speech.html> (footnotes omitted) (last visited Mar. 11, 2020) (“And last month, the staff issued guidance addressing a number of troublesome practices which can make non-GAAP disclosures misleading: the lack of equal or greater prominence for GAAP measures; exclusion of normal, recurring cash operating expenses; individually tailored non-GAAP revenues; lack of consistency; cherry-picking; and the use of cash per share data. I strongly urge companies to carefully consider this guidance and revisit their approach to non-GAAP disclosures.”).

management's inside view of the future prospects of the Company. Without such information, which is uniquely possessed by the Company and its financial advisor, the Company's shareholders are unable to determine how much weight, if any, to place on the Company's financial advisor's fairness opinion in determining whether to vote for or against the Proposed Transaction.

36. Accordingly, in order to bring the Registration Statement into compliance with SEC regulations, as well as to cure the materially misleading nature of the Company's, Xperi's, and the combined company's projections, Defendants must provide a reconciliation table of the aforementioned non-GAAP metrics to their most comparable GAAP metrics. Defendants must also disclose the line item projections that were used to calculate these non-GAAP metrics. Such projections are necessary to make the non-GAAP projections included in the Registration Statement not misleading.

37. The above-referenced omitted information, if disclosed, would significantly alter the total mix of information available to TiVo shareholders.

## **2. Material Omissions Concerning LionTree's Financial Analyses**

38. In connection with the Proposed Transaction, the Registration Statement omits material information concerning analyses performed by LionTree.

39. The Registration Statement fails to disclose the following concerning LionTree's "*Sum-of-the-Parts DCF Analysis*" of TiVo: (1) all line items used to calculate the unlevered free cash flows; (2) the terminal values; (3) the individual inputs and assumptions underlying the (i) range of terminal multiples of 8.0x to 10.0x and 4.75x to 5.75x, and (ii) discount rates ranging from 9.0% to 11.0%; (4) the net present value of the TiVo tax attributes; (5) the estimated consolidated net debt as of December 31, 2019; and (6) the number of fully diluted shares outstanding of TiVo common stock as of December 13, 2019.

40. The Registration Statement fails to disclose the following concerning LionTree's

“*Sum-of-the-Parts DCF Analysis*” of Xperi: (1) all line items used to calculate the unlevered free cash flows; (2) the terminal values; (3) the individual inputs and assumptions underlying the (i) range of terminal multiples of 9.0x to 11.0x and 3.0x to 5.0x, and (ii) discount rates ranging from 8.75% to 10.75%; (4) the future renewal rates of Xperi licenses; (5) the estimated consolidated net debt as of December 31, 2019; and (6) the number of fully diluted shares outstanding of Xperi common stock as of December 13, 2019.

41. The Registration Statement fails to disclose the following concerning LionTree’s “*Pro Forma Financial Analyses*”: (1) the terminal values; and (2) the individual inputs and assumptions underlying the (i) range of terminal value multiples of 6.0x to 8.0x and 7.0x to 9.0x, and (ii) discount rates ranging from 8.9% to 10.9%.

42. The valuation methods, underlying assumptions, and key inputs used by LionTree in rendering its purported fairness opinion must be fairly disclosed to TiVo shareholders. The description of LionTree’s fairness opinion and analyses, however, fails to include key inputs and assumptions underlying those analyses. Without the information described above, TiVo shareholders are unable to fully understand LionTree’s fairness opinion and analyses, and are thus unable to determine how much weight, if any, to place on them in determining whether to vote for or against the Proposed Transaction. This omitted information, if disclosed, would significantly alter the total mix of information available to TiVo shareholders.

### **3. Material Omissions Concerning the Sales Process Leading up to the Proposed Transaction**

43. The Registration Statement omits material information concerning the sales process leading up to the Proposed Transaction.

44. The Registration Statement provides that, “TiVo executed nondisclosure agreements with a total of 26 . . . potential counterparties.”

45. The Registration Statement, however, fails to disclose whether TiVo's nondisclosure agreements contained standstill provisions with "don't ask, don't waive" provisions (including their time of enforcement) that would preclude these potential counterparties from making superior offers for TiVo.

46. Without this information, the Company's shareholders may have the mistaken belief that these potential counterparties are or were permitted to submit superior proposals for the Company, when in fact they are or were contractually prohibited from doing so. This information is material because a reasonable TiVo shareholder would want to know, prior to voting for or against the Proposed Transaction, whether other potential buyers are or were foreclosed from submitting a superior proposal.

47. The above-referenced omitted information, if disclosed, would significantly alter the total mix of information available to TiVo shareholders.

#### **4. Material Omissions Concerning Potential Conflicts of Interest Involving LionTree**

48. The Registration Statement omits material information concerning potential conflicts of interest involving LionTree.

49. The Registration Statement provides that "neither LionTree nor its affiliates have received compensation from TiVo or its affiliates during the past two years[,]" but fails to disclose whether and to what extent LionTree and/or its affiliates have provided past services to Xperi and/or its affiliates, including the timing and nature of these services and the amount of compensation LionTree and/or its affiliates received for providing such services.

50. Disclosure of a financial advisor's compensation and potential conflicts of interest to shareholders is required due to their central role in the evaluation, exploration, selection, and implementation of strategic alternatives and the rendering of any fairness opinions. Disclosure of

a financial advisor's potential conflicts of interest may inform shareholders on how much weight to place on that analysis.

51. The omission of the above-referenced information renders the Registration Statement materially incomplete and misleading. This information, if disclosed, would significantly alter the total mix of information available to TiVo shareholders.

### **COUNT I**

#### **For Violations of Section 14(a) and Rule 14a-9 Promulgated Thereunder Against All Defendants**

52. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

53. During the relevant period, Defendants, individually and in concert, directly or indirectly, disseminated or approved the false and misleading Registration Statement specified above, which failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in violation of Section 14(a) of the Exchange Act and Rule 14a-9 promulgated thereunder by the SEC.

54. Each of the Individual Defendants, by virtue of his/her positions within the Company as officers and/or directors, were aware of the omitted information but failed to disclose such information, in violation of Section 14(a) of the Exchange Act. Defendants, by use of the mails and means and instrumentalities of interstate commerce, solicited and/or permitted the use of their names to file and disseminate the Registration Statement with respect to the Proposed Transaction. The Defendants were, at minimum, negligent in filing the materially false and misleading Registration Statement.

55. The false and misleading statements and omissions in the Registration Statement are material in that a reasonable shareholder would consider them important in deciding how to vote on the Proposed Transaction.

56. By reason of the foregoing, Defendants have violated Section 14(a) of the Exchange Act and Rule 14a-9 promulgated thereunder.

57. Because of the false and misleading statements and omissions in the Registration Statement, Plaintiff is threatened with irreparable harm.

**COUNT II**  
**Violations of Section 20(a) of the Exchange Act**  
**Against the Individual Defendants**

58. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

59. The Individual Defendants acted as control persons of the Company within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their senior positions as officers and/or directors of the Company and participation in and/or awareness of the Company's operations and/or intimate knowledge of the false statements contained in the Registration Statement filed with the SEC, they had the power to and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the false and misleading Registration Statement.

60. Each of the Individual Defendants was provided with or had unlimited access to copies of the Registration Statement and other statements alleged by Plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected. As officers and/or directors of a publicly owned company, the Individual Defendants had a duty to disseminate accurate and truthful information with respect to the Registration Statement, and to correct promptly any public statements issued by the Company which were or had become materially false or misleading.

61. In particular, each of the Individual Defendants had direct and supervisory

involvement in the operations of the Company, and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same. The Individual Defendants were provided with or had unlimited access to copies of the Registration Statement and had the ability to prevent the issuance of the statements or to cause the statements to be corrected. The Registration Statement at issue contains the recommendation of the Individual Defendants to approve the Proposed Transaction. Thus, the Individual Defendants were directly involved in the making of the Registration Statement.

62. In addition, as the Registration Statement sets forth at length, and as described herein, the Individual Defendants were involved in negotiating, reviewing, and approving the Proposed Transaction. The Registration Statement purports to describe the various issues and information that they reviewed and considered—descriptions which had input from the Individual Defendants.

63. By virtue of the foregoing, the Individual Defendants have violated Section 20(a) of the Exchange Act.

64. As set forth above, the Individual Defendants had the ability to exercise control over and did control a person or persons who have each violated Section 14(a) and Rule 14a-9 promulgated thereunder, by their acts and omissions as alleged herein. By virtue of their positions as controlling persons, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of Defendants' conduct, the Company's shareholders will be irreparably harmed.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for judgment and relief as follows:

A. Preliminarily and permanently enjoining Defendants and all persons acting in concert with them from proceeding with, consummating, or closing the Proposed Transaction and any vote on the Proposed Transaction, unless and until Defendants disclose and disseminate the material information identified above to Company shareholders;

B. In the event Defendants consummate the Proposed Transaction, rescinding it and setting it aside or awarding rescissory damages;

C. Declaring that Defendants violated Sections 14(a) and 20(a) of the Exchange Act, and Rule 14a-9 promulgated thereunder;

D. Awarding Plaintiff reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

E. Granting such other and further relief as the Court may deem just and proper.

**JURY TRIAL DEMANDED**

Plaintiff hereby demands a trial by jury.

Dated: March 11, 2020

Respectfully submitted,

**HALPER SADEH LLP**

By: /s/ Daniel Sadeh  
Daniel Sadeh, Esq.  
Zachary Halper, Esq. (to be admitted *pro hac vice*)  
375 Park Avenue, Suite 2607  
New York, NY 10152  
Telephone: (212) 763-0060  
Facsimile: (646) 776-2600  
Email: sadeh@halpersadeh.com  
zhalper@halpersadeh.com

*Counsel for Plaintiff*



CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
CRAIG HENNING
(b) County of Residence of First Listed Plaintiff
(c) Attorneys (Firm Name, Address, and Telephone Number)
Halper Sadeh LLP
375 Park Avenue, Suite 2607, New York, NY 10152
Telephone: (212) 763-0060

DEFENDANTS
TIVO CORPORATION, ET AL.,
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT
110 Insurance
120 Marine
130 Miller Act
140 Negotiable Instrument
150 Recovery of Overpayment & Enforcement of Judgment
151 Medicare Act
152 Recovery of Defaulted Student Loans (Excludes Veterans)
153 Recovery of Overpayment of Veteran's Benefits
160 Stockholders' Suits
190 Other Contract
195 Contract Product Liability
196 Franchise
TORTS
PERSONAL INJURY
310 Airplane
315 Airplane Product Liability
320 Assault, Libel & Slander
330 Federal Employers' Liability
340 Marine
345 Marine Product Liability
350 Motor Vehicle
355 Motor Vehicle Product Liability
360 Other Personal Injury
362 Personal Injury - Medical Malpractice
PERSONAL INJURY
365 Personal Injury - Product Liability
367 Health Care/Pharmaceutical Personal Injury Product Liability
368 Asbestos Personal Injury Product Liability
370 Other Fraud
371 Truth in Lending
380 Other Personal Property Damage
385 Property Damage Product Liability
FORFEITURE/PENALTY
625 Drug Related Seizure of Property 21 USC 881
690 Other
LABOR
710 Fair Labor Standards Act
720 Labor/Management Relations
740 Railway Labor Act
751 Family and Medical Leave Act
790 Other Labor Litigation
791 Employee Retirement Income Security Act
BANKRUPTCY
422 Appeal 28 USC 158
423 Withdrawal 28 USC 157
PROPERTY RIGHTS
820 Copyrights
830 Patent
840 Trademark
SOCIAL SECURITY
861 HIA (1395ff)
862 Black Lung (923)
863 DIWC/DIWW (405(g))
864 SSID Title XVI
865 RSI (405(g))
FEDERAL TAX SUITS
870 Taxes (U.S. Plaintiff or Defendant)
871 IRS—Third Party 26 USC 7609
OTHER STATUTES
375 False Claims Act
376 Qui Tam (31 USC 3729(a))
400 State Reapportionment
410 Antitrust
430 Banks and Banking
450 Commerce
460 Deportation
470 Racketeer Influenced and Corrupt Organizations
480 Consumer Credit
490 Cable/Sat TV
850 Securities/Commodities/Exchange
890 Other Statutory Actions
891 Agricultural Acts
893 Environmental Matters
895 Freedom of Information Act
896 Arbitration
899 Administrative Procedure Act/Review or Appeal of Agency Decision
950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. §§ 78n(a) and 78t(a)
Brief description of cause:
Violations of the federal securities laws.

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER

DATE 3/11/2020 SIGNATURE OF ATTORNEY OF RECORD /s/ Daniel Sadeh

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

**CERTIFICATION OF ARBITRATION ELIGIBILITY**

Local Arbitration Rule 83.7 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration

I, Daniel Sadeh, counsel for Craig Henning, do hereby certify that the above captioned civil action is eligible for compulsory arbitration for the following reason(s):

- 
- 
- 

monetary damages sought are in excess of \$150,000, exclusive of interest and costs,

the complaint seeks injunctive relief,

the matter is otherwise ineligible for the following reason

**DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1**

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

N/A

**RELATED CASE STATEMENT (Section VIII on the Front of this Form)**

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

**NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)**

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County?  Yes  No
- 2.) If you answered "no" above:
  - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County?  Yes  No
  - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District?  Yes  No
  - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County?  Yes  No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

**BAR ADMISSION**

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes  No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain)  No

I certify the accuracy of all information provided above.

Signature: /s/ Daniel Sadeh

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

CRAIG HENNING,

Plaintiff(s)

v.

TIVO CORPORATION, et al.,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) TIVO CORPORATION, JAMES E. MEYER, RAGHAVENDRA RAU, LAURA J. DURR, ALAN L. EARHART, EDDY W. HARTENSTEIN, DAN MOLONEY, DAVE SHULL, GLENN W. WELLING, and LORIA B. YEADON

2160 Gold Street
San Jose, California 95002

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Daniel Sadeh
HALPER SADEH LLP
375 Park Avenue, Suite 2607
New York, NY 10152
Telephone: (212) 763-0060
Email: sadeh@halpersadeh.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER
CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: