TIVO INC
Form 10-Q
September 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 July 31, 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 incorporation or organization)	**(I.R.S. Employer 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 108,461,440 as of August 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 increases in hardware losses, 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/Hybrid TV (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/Hybrid TV (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 and the expected future increase in the number of fully-amortized TiVo-Owned 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 long-term investments 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)

	July 31, 2009	January 31, 2009
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	$ 147,007	$ 162,337
Short-term investments	90,864	44,991
Accounts receivable, net of allowance for doubtful accounts of $960 and $770	12,964	14,283
Inventories	4,849	13,027
Prepaid expenses and other, current	4,640	4,896
Total current assets	260,324	239,534
LONG-TERM ASSETS		
Property and equipment, net	10,709	10,285
Purchased technology, capitalized software, and intangible assets, net	10,526	10,597
Prepaid expenses and other, long-term	1,479	1,268
Long-term investments	7,087	3,944
Total long-term assets	29,801	26,094
Total assets	$ 290,125	$ 265,628
LIABILITIES AND STOCKHOLDERS EQUITY		
LIABILITIES		
CURRENT LIABILITIES		
Accounts payable	$ 10,935	$ 9,844
Accrued liabilities	22,448	25,054
Deferred revenue, current	40,705	47,560
Total current liabilities	74,088	82,458
LONG-TERM LIABILITIES		
Deferred revenue, long-term	26,054	28,557
Deferred rent and other long-term liabilities	126	126
Total long-term liabilities	26,180	28,683
Total liabilities	100,268	111,141
COMMITMENTS AND CONTINGENCIES (see Note 9)		
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 108,891,757 and 103,604,015, respectively and outstanding shares are 108,350,354 and 103,370,523, respectively	109	104
Additional paid-in capital	874,435	829,273
Accumulated deficit	(679,262)	(672,196)
Treasury stock, at cost - 541,403 shares and 233,492 shares, respectively	(4,082)	(1,659)
Accumulated other comprehensive loss	(1,343)	(1,035)
Total stockholders equity	189,857	154,487
Total liabilities and stockholders equity	$ 290,125	$ 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 July 31, 2009	Three Months Ended July 31, 2008	Six Months Ended July 31, 2009	Six Months Ended July 31, 2008
Revenues				
Service revenues	$ 41,500	$ 48,174	$ 83,629	$ 96,617
Technology revenues	7,349	5,369	13,735	11,776
Hardware revenues	8,533	11,699	14,909	17,644
Net revenues	57,382	65,242	112,273	126,037
Cost of revenues				
Cost of service revenues (1)	9,831	11,245	19,981	22,439
Cost of technology revenues (1)	5,862	3,124	10,345	7,044
Cost of hardware revenues	12,935	15,274	23,511	25,639
Total cost of revenues	28,628	29,643	53,837	55,122
Gross margin	28,754	35,599	58,436	70,915
Research and development (1)	14,358	15,323	29,424	30,071
Sales and marketing (1)	5,463	5,906	11,158	11,842
Sales and marketing, subscription acquisition costs	838	888	1,820	2,047
General and administrative (1)	11,227	10,869	23,469	21,205
Total operating expenses	31,886	32,986	65,871	65,165
Income (loss) from operations	(3,132)	2,613	(7,435)	5,750
Interest income	136	421	326	1,000
Interest expense and other	78	(94)	78	(181)
Income (loss) before income taxes	(2,918)	2,940	(7,031)	6,569
Provision for income taxes	(19)	(23)	(35)	(36)
Net income (loss)	$ (2,937)	$ 2,917	$ (7,066)	$ 6,533
Net income (loss) per common share - basic	$ (0.03)	$ 0.03	$ (0.07)	$ 0.07
Net income (loss) per common share - diluted	$ (0.03)	$ 0.03	$ (0.07)	$ 0.06
Weighted average common shares used to calculate basic net income (loss) per share	105,840,076	100,025,002	104,076,621	99,705,914
Weighted average common shares used to calculate diluted net income (loss) per share	105,840,076	102,217,222	104,076,621	102,489,411

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

Cost of service revenues	$ 289	$ 239	$ 552	$ 430
Cost of technology revenues	614	507	1,171	1,113
Research and development	1,960	2,140	4,451	4,122
Sales and marketing	550	336	1,235	876
General and administrative	2,571	2,352	5,645	4,510

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)

	Six Months Ended July 31, 2009	2008
CASH FLOWS FROM OPERATING ACTIVITIES		
Net income(loss)	$ (7,066)	$ 6,533
Adjustments to reconcile net income(loss) to net cash provided by(used in) operating activities:		
Depreciation and amortization of property and equipment and intangibles	4,610	5,070
Stock-based compensation expense	13,054	11,051
Utilization of trade credits	23	
Allowance for doubtful accounts	187	69
Changes in assets and liabilities:		
Accounts receivable	1,132	5,494
Inventories	8,178	7,838
Prepaid expenses and other	22	(115)
Accounts payable	525	(9,595)
Accrued liabilities	(2,565)	(3,515)
Deferred revenue	(9,358)	(12,508)
Deferred rent and other long-term liabilities		(164)
Net cash provided by operating activities	$ 8,742	$ 10,158
CASH FLOWS FROM INVESTING ACTIVITIES		
Purchases of short-term investments	(160,876)	
Sales or maturities of short-term investments	114,952	15,294
Purchase of long-term investment	(3,400)	
Acquisition of property and equipment	(2,865)	(2,535)
Acquisition of intangibles	(1,532)	(318)
Net cash provided by (used in) investing activities	$ (53,721)	$ 12,441
CASH FLOWS FROM FINANCING ACTIVITIES		
Proceeds from issuance of common stock related to exercise of common stock options	29,793	5,050
Proceeds from issuance of common stock related to employee stock purchase plan	2,320	
Treasury Stock - repurchase of stock for tax withholding	(2,423)	(684)
Payment under capital lease obligation	(41)	
Net cash provided by financing activities	$ 29,649	$ 4,366
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	$ (15,330)	$ 26,965
CASH AND CASH EQUIVALENTS:		
Balance at beginning of period	162,337	78,812
Balance at end of period	$ 147,007	$ 105,777

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 by and against the Company; access to digital cable signals in connection with CableCard and switched digital technologies; and dependence on its relationships with third party service providers such as Comcast and Seven/Hybrid TV (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 decline 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 July 31, 2009 and January 31, 2009 and the results of operations for the three and six month periods ended July 31, 2009 and 2008 and condensed consolidated statements of cash flows for the six month periods ended July 31, 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 and six month periods ended July 31, 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. 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 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, DIRECTV, and Seven/Hybrid TV, 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. The Company sells 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.

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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 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 July 31, 2009 the Company s gross margin was positively impacted by a net benefit of $29,000 from changes in inventory reserves and for the three months ended July 31, 2008 we had a net benefit of $1.4 million, from the sale of inventory that was previously impaired. As of July 31, 2009, the Company maintained a $3.1 million inventory reserve as a result of 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 the Company s current sales projections exceed its original projections, the inventory reserves are not reversed until the previously impaired inventory is sold or scrapped.

Fair Value Measures

Carrying amounts of certain of the Company s financial instruments including accounts receivable, accounts payable, and accrued expenses approximate their fair value because of their short maturities. Cash equivalents and available-for-sale marketable securities are reported at their fair value.

Statement of Financial Accounting Standards 157, *Fair Value Measurements* (SFAS 157), defines fair value, establishes a framework for measuring fair value, and enhances fair value measurement disclosure. 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.

Under 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), 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. The Company has not elected the fair value option for any eligible financial instruments.

As of May 1, 2009, the Company adopted FASB Staff Position No. 107 (FSP 107) and Accounting Principles Board No. 28-1 (APB 28-1), *Disclosures about Fair Value of Financial Instruments*, which requires disclosure about fair value of financial instruments in interim and annual financial statements. The adoption of FSP No. 107 and APB 28-1 had no financial impact on the Company s condensed consolidated financial statements.

Refer to Note 4, Fair Value Measurements of this Form 10-Q for additional information on the adoption of FSP 107, SFAS 157, and SFAS 159.

Business Concentrations and Credit Risk

The Company s business is concentrated primarily 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 high-grade government and corporate debt and maintains them with two financial institutions with high credit ratings. 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.

As of July 31, 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. The Company has recorded an unrealized loss on these auction rate securities of $1.3 million. As of July 31, 2009, the estimated fair value of these ARS was $1.3 million lower than their cost. The Company has no intent to sell and it is more-likely-than not that the Company will not be required to sell these ARS prior to recovery. Further, the total unrealized loss is primarily due to a liquidity discount resulting from the failed auctions. Therefore, the Company will continue to treat the decline in fair values as temporary pursuant to FSP

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115-2 and 124-2 and record the unrealized loss to accumulated other comprehensive income on the accompanying condensed consolidated balance sheet as of July 31, 2009. The Company is exposed to credit risk on its investments to the extent of the amount recorded on the condensed consolidated balance sheet as of July 31, 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. One customer generated 10% of the net revenues for the quarter ended July 31, 2009. The Company s accounts receivable concentrations as of July 31, 2009 and January 31, 2009 were as follows:

	July 31, 2009	January 31, 2009
DIRECTV	33%	18%
Best Buy	22%	18%
Seven/Hybrid TV	15%	7%
Comcast	8%	20%
Other customers	22%	37%
Total accounts receivable	100%	100%

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 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 was effective for the Company s interim reporting beginning in the second quarter of fiscal 2010. The implementation of this new accounting standard did not significantly change the Company s valuation or disclosure of financial and nonfinancial assets and liabilities under the scope of FAS 157.

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 was effective for the Company s interim reporting in the second quarter of fiscal 2010 and its adoption did not have a material impact on its condensed consolidated financial statements.

In May 2009, the Financial Accounting Standards Board (FASB) issued Statement of Financial Accounting Standards (SFAS) No. 165, *Subsequent Events* (SFAS 165), which establishes general standards of accounting for and disclosure of events that occur after the balance sheet date but before financial statements are issued or are available to be issued. The Company adopted SFAS 165 for the quarter ended July 31, 2009. Adoption did not have a material impact on the Company s condensed consolidated financial statements.

In June 2009, the FASB issued SFAS No. 168, *The FASB Accounting Standards Codification and the Hierarchy of Generally Accepted Accounting Principles* (SFAS 168). SFAS 168 identifies the FASB Accounting Standards Codification as the authoritative source of generally accepted accounting principles in the United States. Rules and interpretive releases of the Securities and Exchange Commission (SEC) under federal securities laws are also sources of authoritative GAAP for SEC registrants. SFAS 168 is effective for financial statements issued for interim and annual periods ending after September 15, 2009. We do not expect adoption to have a material impact on our condensed consolidated financial statements.

Subsequent Events

The Company evaluated subsequent events through September 9, 2009, the date of this Quarterly Report on Form 10-Q was filed with the Securities and Exchange Commission (SEC).

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3. CASH AND INVESTMENTS

Cash, cash equivalents, short-term investments, and long-term investments consisted of the following:

	As of July 31, 2009	As of January 31, 2009
	(in thousands)	
Cash and cash equivalents:		
Cash	$ 3,813	$ 8,410
Cash equivalents:		
Commercial paper	2,998	
Money market funds	140,196	153,927
Total cash and cash equivalents	147,007	162,337
Marketable securities:		
Certificate of deposit	3,000	
Commercial paper	12,375	
Fixed-rate notes	5,596	
Corporate bonds	4,879	
US Treasury securities	45,090	44,991
US agency securities	19,924	
Auction rate securities (1)	3,687	3,944
Total marketable securities	94,551	48,935
Other investment securities:		
Other investment securities - cost method	3,400	
Total other investment securities (1)	3,400	
Total cash, cash equivalents, marketable securities and other investment securities	$ 244,958	$ 211,272

(1) Auction rate securities and other investment securities are included in Other long-term investments on the Company s condensed consolidated balance sheets.

Marketable Securities

The Company s investment securities portfolio consists of various debt instruments, including corporate and government bonds, all of which are classified as available-for-sale.

Approximately $4.0 million of TiVo s corporate bonds are guaranteed by the full faith and credit of the United States government under the Federal Deposit Insurance Corporation s Temporary Liquidity Guarantee program (TLGP).

Other Investment Securities

TiVo has investments in a private company where the Company s ownership is less than 20%. The shares are not publicly traded and the investment is accounted for under the cost method.

Contractual Maturity Date

The following table summarized the estimated fair value of the Company s debt investments, designated as available-for-sale classified by the contractual maturity date of the security:

	July 31, 2009 (in thousands)
Due within 1 year	$ 68,575
Due within 1 year through 5 years	22,289
Due within 5 years through 10 years	
Due after 10 years	3,687
Total	$ 94,551

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Unrealized Gains (Losses) on Marketable Investment Securities

The following table summarizes unrealized gains and losses related to the Company s investments in marketable securities designated as available-for-sale:

	As of July 31, 2009			
	Adjusted Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
		(in thousands)		
Certificate of deposit	3,000	$	$	$ 3,000
Commercial paper	12,373	3	(1)	12,375
Fixed-rate notes	5,625		(29)	5,596
Corporate bonds	4,870	13	(4)	4,879
US Treasury securities	45,101	4	(15)	45,090
US agency securities	19,925	1	(2)	19,924
Auction rate securities	5,000		(1,313)	3,687
Total	$ 95,894	$ 21	$ (1,364)	$ 94,551

	As of January 31, 2009			
	Adjusted Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
		(in thousands)		
US Treasury securities	44,970	$ 21	$	44,991
Auction rate securities	5,000	$	$ (1,056)	3,944
Total	$ 49,970	$ 21	$ (1,056)	$ 48,935

The Company had net unrealized losses on its marketable investment portfolio of $1.3 million as of July 31, 2009 and net unrealized losses of $1.0 million as of January 31, 2009. The net unrealized losses as of July 31, 2009 and January 31, 2009 related primarily to long-term marketable securities.

The available-for-sale investments that were in an unrealized loss position as of July 31, 2009 and January 31, 2009, aggregated by length of time that individual securities have been in a continuous loss position, were as follows:

	As of July 31, 2009					
	Less than 12 Months		12 Months or Greater		Total	
	Fair Value	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses
			(in thousands)			
Fixed-rate notes	$ 5,596	$ (29)	$	$	$ 5,596	$ (29)
Corporate bonds	4,879	(4)			4,879	(4)
US Treasury securities	45,090	(15)			45,090	(15)
US agency securities	19,924	(2)			19,924	(2)
Auction rate securities			3,687	(1,313)	3,687	(1,313)

	$ 75,489	$ (50)	$ 3,687	$ (1,313)	$ 79,176	$ (1,363)

	As of January 31, 2009					
	Less than 12 Months		12 Months or Greater		Total	
	Fair Value	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses	Fair Value	Gross Unrealized Losses
	(in thousands)					
Auction rate securities						