

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

TOUCHSTREAM TECHNOLOGIES, INC.,

Plaintiff,

v.

**CHARTER COMMUNICATIONS, INC. et
al.,**

Defendants.

TOUCHSTREAM TECHNOLOGIES, INC.,

Plaintiff,

v.

**COMCAST CABLE COMMUNICATIONS,
LLC, D/B/A XFINITY, et al.,**

Defendants.

Lead Case No. 2:23-cv-00059-JRG
Member Case No. 2:23-cv-00062-JRG

**THIRD SUPPLEMENTAL JOINT NOTICE REGARDING
PRETRIAL AGREEMENTS**

Plaintiff Touchstream Technologies, Inc. (“Touchstream”) and Defendants Comcast Cable Communications, LLC, et al. (“Comcast”) jointly submit this third supplemental notification of agreements further narrowing disputes in advance of the pretrial conference on January 23, 2024.¹

Attached as Exhibits A1 (Joint Exhibit List), A2 (Touchstream’s Non-Joint Exhibit List), and A3 (Comcast’s Non-Joint Exhibit List) are the parties’ revised exhibit lists, which reflect the parties’ further narrowing of objections. Also attached as Exhibit B is the parties’ revised day

¹ The parties’ proposed jury instructions remain unchanged from the joint submission on December 16, 2024. *See* Dkt. No. 222, Ex. B.

1 deposition designations and objections, which reflect the parties' further narrowing of designations, counter-designations, and objections thereto. The parties have agreed to the exhibits on the Joint Exhibit List only insofar as they are not excluded by the Court's rulings on the parties' motions to strike and motions for summary judgment, and the parties reserve the right to object to any exhibits currently on the Joint Exhibit List as well as any deposition designations should the Court grant any of those motions.

Although the parties preserve their objections to the exhibits and designations in Exhibits A1, A2, A3, and B that are implicated by their motions *in limine*, the parties have removed certain objections because Magistrate Judge Payne has resolved them in his rulings on the parties' Motions *in Limine*.

Specifically, while Comcast objects to the admissibility of PTX-020, PTX-021, PTX-022, PTX-024, PTX-026, PTX-027, PTX-029, PTX-031, PTX-032, PTX-033, PTX-085, JTX-018, JTX-020, JTX-021, JTX-022, JTX-023, JTX-024, JTX-027, JTX-063, JTX-064, DTX-029, DTX-031, DTX-032, DTX-035, DTX-041, DTX-044, DTX-050, DTX-051, DTX-054, DTX-056, and DTX-078, as well as certain deposition testimony of Jamie Cohen, Tony Werner, Jeffrey Pinard, Linda Yaccarino, Gil Beyda, Michael Rinzler, and Rajiv Lulla under Fed. R. Evid. 402 and 403 for the reasons stated in Comcast's Motion *in Limine* No. 3, those objections have been resolved in the ruling on that motion. Similarly, while Comcast objects to DTX-083, as well as certain deposition testimony of Anandhan Subbiah and Sharon Cilione-Berger, under Fed. R. Evid. 402 and 403 for the reasons stated in Comcast's Motion *in Limine* No. 2, those objections have been resolved in the ruling on that motion. Finally, while Comcast objects to PTX-009, as well as certain deposition testimony of Ernest Pighini and Scott Manning, under Fed. R. Evid. 402 and 403 for the reasons stated in Comcast's Motion *in Limine* No. 4, those objections have been

resolved in the ruling on that motion.

Furthermore, Touchstream has withdrawn objections to certain exhibits and deposition testimony in view of the Court's rulings on the Motions in *Limine*. Touchstream has also withdrawn certain affirmative designations for the deposition of Tony Werner based on the Court's ruling on Comcast's Motion in *Limine* No. 1.

The parties have further agreed that Touchstream's authentication and foundation objections to DTX-017 will be deferred until foundation can be laid through a trial witness.

Touchstream also notes that Comcast's FRE 602 objections to Mr. Tony Werner's deposition designations at 122:20-123:7, 125:5-9, 126:6-13, and 126:19-24 were raised the day before the parties' January 23, 2025, pre-trial conference. Comcast previously dropped its FRE 602 objection to the designated testimony at 126:6-13 and has not previously raised FRE 602 objections to the rest of the cited testimony. Comcast has added these objections because the designated testimony relates to PTX-033, which Touchstream had previously withdrawn from its exhibit list and which it added back to the exhibit list on January 20, 2025.

The parties reserve the right to amend, supplement, or modify these proposed materials as the case proceeds toward trial and as the parties continue to meet and confer regarding these materials in an attempt to further remove disputed issues.

Date: January 22, 2025

Respectfully submitted,

/s/ Ryan Dykal

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/s/ Ashok Ramani

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