

**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.

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

JURY TRIAL DEMANDED

Touchstream Technologies, Inc.,

Plaintiff,

v.

**Comcast Cable Communications, LLC,
d/b/a Xfinity, et al.,**

Defendants.

Member Case No. 23-cv-00062-JRG

JURY TRIAL DEMANDED

SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Touchstream Technologies, Inc., hereby files this Second Amended Complaint for Patent Infringement against Comcast Cable Communications, LLC, d/b/a Xfinity, Comcast Corp., Comcast Cable Communications Management, LLC, and Comcast of Houston, LLC (collectively, “Comcast”) and alleges, upon information and belief, as follows:

THE PARTIES

1. Plaintiff Touchstream Technologies, Inc., d/b/a Shodogg (“Touchstream” or “Plaintiff”) is a Delaware corporation with its principal place of business in South Dakota.

2. Defendant Comcast Cable Communications, LLC is a limited liability company organized and existing under the laws of the State of Delaware, having its principal place of business at One Comcast Center, 1701 John F. Kennedy Boulevard., Philadelphia, Pennsylvania 19103. Comcast Cable Communications, LLC may be served through its registered agent Comcast Capital Corporation, 1201 N. Market Street, Suite 1000, Wilmington, Delaware 19801.

3. Defendant Comcast Corporation is a Pennsylvania corporation with its principal place of business at One Comcast Center, 1701 John F. Kennedy Boulevard., Philadelphia, Pennsylvania 19103. It is registered to do business in the state of Texas and may be served through its registered agent at CT Corporation System, 1999 Bryan Street., Suite 900, Dallas, Texas 75201.

4. Defendant Comcast Cable Communications Management, LLC is a limited liability company organized and existing under the laws of the State of Delaware, having its principal place of business at One Comcast Center, 1701 John F. Kennedy Boulevard., Philadelphia, Pennsylvania 19103. Comcast Cable Communications Management, LLC may be served through its registered agent CT Corporation System, at 1999 Bryan Street, Suite 900, Dallas, Texas 75201. On information and belief, Comcast Cable Communications Management, LLC is registered to do business in the State of Texas and has been since at least November 10, 2011.

5. Defendant Comcast of Houston, LLC is a limited liability company organized and existing under the laws of the State of Delaware, having its principal place of business at One Comcast Center, 1701 John F. Kennedy Boulevard., Philadelphia, Pennsylvania, 19103. Comcast of Houston may be served through its registered agent CT Corporation System, at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

NATURE OF THE ACTION

6. This is a civil action against Comcast for patent infringement arising under the patent statutes of the United States, 35 U.S.C. § 271 *et seq.* for the infringement of United States Patents No. 8,356,251 (the “’251 Patent”), No. 11,048,751 (the “’751 Patent”), and No. 11,086,934 (the “’934 Patent”) (alternatively, “the Touchstream Patents”). A true and correct copy of the ’251, ’751, and ’934 patents are attached as Exhibits 1, 2, and 3 to this Complaint.

JURISDICTION AND VENUE

7. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has personal jurisdiction over Comcast in this action because Comcast has committed acts within the Eastern District of Texas giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over Comcast would not offend traditional notions of fair play and substantial justice. Comcast has engaged in continuous, systematic, and substantial activities within this State, including substantial marketing and sales of products—including the Xfinity products¹ that are used by Comcast in connection with performing the accused Xfinity functionalities²—within this State. Furthermore, Comcast—directly and/or through subsidiaries or intermediaries—has committed and continues to commit acts of infringement in this District by, among other things, selling, offering to sell, and using the Xfinity service.

¹ The term “the Xfinity products” is defined at ¶¶ 54 *et. seq.*, *infra*.

² The term “accused Xfinity functionalities” is defined at ¶¶ 34, *et. seq.*, *infra*.

9. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c) and/or 1400(b). As discussed above, Comcast currently has a regular and established place of business in this District, and has committed and continues to commit acts of patent infringement in this District.

10. Comcast maintains a permanent physical presence within the Eastern District of Texas, conducting business from numerous locations, including at least 135 Houston St, Lewisville Texas, 75057; 1300 Coit Road, Plano Texas 75075; 3033 W. President George Bush Hwy, Plano Texas 7505; 900 Venture Drive, Allen Texas 75013; and 8537 Labelle Road, Beaumont Texas, 77705. On information and belief, Comcast operates physical operations in at least the counties of Denton, Collin, Liberty, Anderson, Liberty, and Harrison.

11. Comcast also maintains a Texas office where Xfinity products are developed, located at 6200 Bridge Point Parkway, #500, Austin, Texas 78730.

12. Public reporting indicates that Comcast has maintained an office in Austin since 2016.³

13. On information and belief, managers and engineers responsible for the development and execution of Comcast's development and strategy of the Xfinity products, currently reside in or around Austin, Texas, and are currently employed by Comcast.

14. Comcast employed at least 100 persons in Austin as of September 2016.⁴ As of January 25, 2023, Comcast had job postings for 62 positions in Texas, with engineering roles specifically related to the infringing technologies in Austin.⁵

³ See, e.g., Calnan, Christopher, *Another Media Giant to Open R&D Office in Austin*, Austin Bus. J., Sep. 6, 2016

⁴ Austin Relocation Guide, <https://austinrelocationguide.com/comcast-corporation-plans-to-hire-for-new-austin-rd-office/>

⁵ Search conducted via https://jobs.comcast.com/jobs/description/tpx-jd-template?external_or_internal=External&job_id=R351687. See, e.g., Roku engineering position <https://jobs.comcast.com/jobs/description/tpx-jd->

15. Comcast directly and/or indirectly tests, distributes, markets, offers to sell, sells, and/or utilizes the Xfinity products that Comcast uses to perform the accused Xfinity functionalities in the Eastern District of Texas, and otherwise purposefully directs infringing activities to this District in connection with its Xfinity products.

TOUCHSTREAM'S PATENTS

16. In 2010, David Strober, the inventor of the Touchstream Patents and the original founder of Touchstream, was working at Westchester Community College as a Program Manager and e-learning instructional designer. At this job Mr. Strober facilitated the development of online college courses, developing software as needed to support those efforts.

17. At least as early as mid-2010, Mr. Strober perceived the need to be able to take videos that could be viewed on a smaller device, like a smartphone, and “move” them to a larger screen, like a computer monitor or television. In working to bring his idea to fruition, Mr. Strober expanded his work by using a device like a smartphone to cause a video to play on a second screen, even if that video resided elsewhere (like the public internet). Near the end of 2010, Mr. Strober had developed a working prototype that demonstrated his groundbreaking concept. Recognizing that that his invention could revolutionize how people located, viewed, and shared media, Mr. Strober filed his first patent application in April 2011.

18. The Touchstream Patents are not directed to an abstract idea, but are limited to a specific, concrete messaging architecture. The claims require various components to send or receive signals (or messages) to control the playback of videos from various media players over a network, with precise requirements varying by claim. They do not cover all forms of remote control of content

template?external_or_internal=External&job_id=R349546, or X1 Media Platform engineering position <https://comcast.jibeapply.com/main/jobs?location=texas&page=1&limit=100>

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