

**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

REDACTED

**COMCAST'S MOTION TO COMPEL
INFORMATION REGARDING FINANCIAL INTERESTS**

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I. INTRODUCTION

Comcast seeks basic discovery: identification of any person with a financial interest in Touchstream, the Asserted Patents, or this litigation (a “Financial Interest”) and production of documents sufficient to show the extent and nature of those interests.¹ Any person with a Financial Interest is a potential witness because they may have discoverable information about Touchstream or the value of the Asserted Patents, among other things. However, Touchstream insists that **Comcast** must identify who it believes are potential witnesses before Touchstream even considers whether to disclose their Financial Interests. That is backwards: Comcast needs the information it requests to identify potential witnesses efficiently. Moreover, Touchstream’s position fails to explain its refusal to identify the Financial Interests of individuals that have already been identified as potential witnesses—namely, all individuals listed in Comcast’s Rule 26(a) disclosures and any individual not associated with Touchstream listed on Touchstream’s disclosures. Because the requested information is relevant, not privileged, and easy to provide, the Court should order Touchstream to provide it under Federal Rule of Civil Procedure 37(a)(3)(B).

II. STATEMENT OF FACTS

On June 30, 2023, Comcast requested that Touchstream produce “[d]ocuments sufficient to identify any party with a financial interest in Touchstream or Touchstream’s activities, including any formal or informal profit-sharing agreement(s), arrangement(s) or understanding(s) concerning any litigation relating to any of the Patents-in-Suit.” Touchstream produced no such

¹ This Motion uses the following additional abbreviations: Plaintiff Touchstream Technologies, Inc. (“Touchstream”); Defendants Comcast Cable Communications, LLC, Comcast Corporation, Comcast Cable Communications Management, LLC, and Comcast of Houston, LLC (collectively “Comcast”); and U.S. Patent Nos. 8,356,251, 11,048,751, and 11,086,934 (collectively “Asserted Patents”).

documents and responded to Comcast's deficiency letter with a simple statement that "[s]uch documents are not relevant to any claim or defense." After multiple meet and confers, however, Touchstream acknowledged entering into a consulting agreement with [REDACTED] [REDACTED] which it produced on December 21. Under the agreement, [REDACTED] [REDACTED] [REDACTED]

Touchstream continued to ignore Comcast's request for information regarding any other Financial Interests until a January 4, 2024 meet and confer, in which it suggested that it would consider providing information in response to a new interrogatory. Thus, on January 19, Comcast served Interrogatory No. 5, which requests that Touchstream "[i]dentify all persons that hold a financial interest in Touchstream, the asserted patents, or this litigation, including any individuals identified in Touchstream's initial disclosures and any potential or actual witnesses in this case (whether deposition, trial or otherwise), and the extent and nature of each such person's financial interests." On February 15, Touchstream acknowledged it had entered into another consulting agreement, this one granting [REDACTED] [REDACTED] Touchstream produced that agreement on March 1.

In subsequent meet and confers, Touchstream refused to identify whether any other persons listed on Comcast's Rule 26(a) disclosures or any individual not associated with Touchstream listed on its own disclosures have a Financial Interest, although on March 29 Touchstream amended its response to list the Financial Interests of [REDACTED] and anyone affiliated with Touchstream listed on its own disclosures. Ex. 1 at 1. Touchstream also refused to produce any documents concerning the extent or nature of any other Financial Interest, including capitalization tables, profit-sharing agreements, or litigation-funding agreements.

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