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

TOUCHSTREAM TECHNOLOGIES, INC.

Plaintiff,

v.

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

CHARTER CABLE COMMUNICATIONS, et al.

Defendant.

JURY TRIAL DEMANDED

TOUCHSTREAM TECHNOLOGIES, INC.

Plaintiff,

v.

COMCAST CABLE COMMUNICATIONS, LLC, d/b/a XFINITY, et al.

Defendant.

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

PLAINTIFF TOUCHSTREAM TECHNOLOGIES, INC.'S RESPONSE TO DEFENDANT COMCAST CABLE COMMUNICATIONS, LLC'S MOTION TO COMPEL INFORMATION REGARDING FINANCIAL INTERESTS



TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	ii
STATEMENT OF FACTS	1
ARGUMENT	2
I. Comcast incorrectly asserts that Touchstream did not assert privilege claims	2
II. Comcast's arguments amount to nothing more than speculation	2
III. Comcast's requests are not proportional to the needs of this case	6
CONCLUSION	7

TABLE OF AUTHORITIES

	Page(s)
Cases	
Ashghari-Kamrani v. United Servs. Auto. Ass'n, 2016 WL 11642670 (E.D. Va. May 31, 2016)	2, 4
AVM Techs., LLC v. Intel Corp., 2017 WL 1787562 (D. Del. May 1, 2017)	5
Colibri Heart Valve LLC v. Medtronic CoreValve LLC, 2021 WL 10425630 (C.D. Cal. Mar. 26, 2021)	3, 5
Fleet Connect Solutions LLC v. Waste Connections US, Inc., 2022 WL 2805132 (E.D. Tex. June 29, 2022)	2
GoTV Streaming, LLC v. Netflix, Inc., 2023 WL 4237609 (C.D. Cal. May 24, 2023)	5
Hammler v. Clark, 2020 WL 8483914 (E.D. Cal. Dec. 11, 2020)	5
Hardin v. Samsung Elecs. Co., 2022 WL 14976096 (E.D. Tex. Oct. 25, 2022)	2
Leadership Studies, Inc. v. Blanchard Training & Dev., Inc., 2017 WL 2819847 (S.D. Cal. June 28, 2017)	4
Micro Motion, Inc. v. Kane Steel Co., 894 F.2d 1318 (Fed. Cir. 1990)	4, 6
Rivera v. Nibco, Inc., 364 F.3d 1057 (9th Cir. 2004)	7
Space Data Corp. v. Google LLC, 2018 WL 3054797 (N.D. Cal. 2018)	7
Unilin Beheer B.V. v. NSL Trading Corp., 2015 WL 12659919 (C.D. Cal. Mar. 27, 2015)	7
United Access Techs., LLC v. AT&T Corp., 2020 WL 3128269 (D. Del. Jun. 12, 2020)	4
United States v. Homeward Residential, 2016 WL 1031154 (E.D. Tex. Mar. 15, 2016)	3
VHT, Inc. v. Zillow Grp., Inc., 2016 WL 7077235 (W.D. Wash. Sep. 8, 2016)	3

Statutes

Truth in Lending Act	3
Other Authorities	
5th Cir. Rule 28.2.1	3
Fed. R. Civ. P. 26	1, 2
Fed R Civ P 26(b)(1)	1 7

In addition to seeking financial information tailored to the claims and defenses in this patent case—such as valuations of the patents or the financial interests of witnesses—Comcast seeks *all* financial information relating to Touchstream—including the identity of anyone who ever invested in Touchstream, how much they invested, Touchstream's vendors (and their financial interests), Touchstream's banks, bank loans, law firms, etc. Comcast attempts to justify this overreach by speculating that perhaps conducting a full financial autopsy could point it to information that is actually relevant. This is exactly backwards. Rule 26(b)(1) defines the scope of discovery as information that is "relevant to any party's claim or defense and proportional to the needs of the case." A shotgun request to identify everyone with any financial interest—including random, passive investors in Touchstream—is neither within the bounds of discovery provided by Rule 26 nor proportional to the needs of the case. Touchstream has compromised by providing the relevant, proportional financial information within the scope of Comcast's requests. Comcast's motion to obtain irrelevant, non-proportional financial information should be denied.

STATEMENT OF FACTS



DOCKET

Explore Litigation Insights



Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time** alerts and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

