

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

**TOUCHSTREAM TECHNOLOGIES,
INC.,**

Plaintiff,

v.

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

Defendants.

JURY TRIAL DEMANDED

SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Touchstream Technologies, Inc., hereby files this First Amended Complaint for Patent Infringement against Charter Communications, Inc., Charter Communications Operating, LLC, Spectrum Management Holding Company, LLC, Time Warner Cable Enterprises, LLC, Spectrum Gulf Coast, LLC, and Charter Communications, LLC (collectively, "Spectrum") 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. On information and belief, defendant Charter Communications, Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 12405 Powerscourt Drive, St. Louis Missouri, 63131.
3. According to its website, <https://corporate.charter.com/about-charter>, Charter Communications, Inc. serves “more than 32 million customers in 41 states through its Spectrum brand.”
4. Charter owns or leases, and maintains and operates several stores in this district by and through subsidiary limited liability companies that it manages and controls, including at least Spectrum Gulf Coast LLC, and negotiates and signs agreements on Spectrum Gulf Coast’s behalf.
5. In these stores, Charter Communications, Inc. owns, stores, markets, and sells equipment that perform the Accused Functionalities defined below, including at least Set Top Boxes.¹
6. Charter Communications, Inc. is the corporate manager of its subsidiary LLCs that own or lease property in this district, that employ employees in this district, and that market, own, store, sell, and lease equipment performing the Accused Functionalities in this district. Charter Communications, Inc. has the right to exercise near total control of each entity’s operations through its LLC agreements with each entity.
7. On information and belief, defendant Charter Communications Operating, LLC is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business at 400 Atlantic Street, Stamford, Connecticut 06901.

¹ The accused Spectrum functionalities are described at ¶¶ 44, et. seq., infra.

8. On information and belief, defendant Spectrum Management Holding Company, LLC is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business at 400 Atlantic Street, Stamford, Connecticut 06901.

9. On information and belief, defendant Time Warner Cable Enterprises, LLC is a limited liability company registered with the state of Texas, organized and existing under the laws of the State of Delaware, with its principal place of business at 12405 Powerscourt Drive, Stamford, CT 06901.

10. On information and belief, defendant Spectrum Gulf Coast, LLC is a foreign limited liability company registered in the state of Texas, and organized and existing under the laws of the State of Delaware, with its principal place of business at 12405 Powerscourt Drive, St. Louis, Missouri 63131.

11. On information and belief, defendant Charter Communications, LLC is a foreign limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business at 12405 Powerscourt Drive, St. Louis Missouri 63131. Charter Communications, LLC may be served at 211 E. 7th Street Suite 620, Austin, Texas 78701.

12. Charter Communications, LLC employs personnel that market, install, service, repair, and/or replace equipment providing the Accused Functionalities in this district by and through subsidiary limited liability companies that it manages and controls.

NATURE OF THE ACTION

13. This is a civil action against Spectrum 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 Patent 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

14. 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 the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

15. This Court has personal jurisdiction over Spectrum in this action because Spectrum 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 Spectrum would not offend traditional notions of fair play and substantial justice. Spectrum has engaged in continuous, systematic, and substantial activities within this State, including substantial marketing and sales of products—including the Spectrum products² that are used by Spectrum in connection with performing the Accused Functionalities—within this State. Furthermore, Spectrum—directly and/or through subsidiaries or intermediaries—have committed and continue to commit acts of infringement in this District by, among other things, selling, offering to sell, and using the Spectrum services.

16. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c) and/or 1400(b). As discussed above, Spectrum 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.

17. Spectrum and/or one or more of its subsidiaries maintain permanent physical presences within the Eastern District of Texas, conducting business from numerous locations, including at least retail locations at 4255 Dowlen Road, Beaumont, Texas 77706; 3620 W University Drive, Suite 100, McKinney, Texas 75071; 190 E Stacy Road, Spaces 1714 & 1715, Frisco, Texas 75034; 18208 Preston Road Suite D 2, Dallas, Texas 75252; 2100 North Dallas Parkway, Suite 102, Plano,

² The Spectrum products are defined at ¶¶ 42 *et. seq.*, *infra*.

Texas 75093; 700 Alma Road, Suite 101 & 103, Plano, Texas 75075; 1732 South Loop 288, Suite 130, Denton, Texas 76205; 3555 Legacy Drive, #150, Frisco, Texas 75034; 717 Hebron Parkway, Suite 130, Lewisville, Texas, 75057; 8425 Memorial Boulevard, Suite 300, Port Arthur, Texas 77640; and 3121 Edgar Brown Drive, Suite E, Orange, Texas 77630. Further, Spectrum and/or one or more of its subsidiaries maintain office space at least at 1816 Shady Oaks Drive, Denton, Texas, 76205.

18. Many, if not all, of the above locations feature the “Spectrum” public-facing brand name under which various Spectrum corporate entities operate.

19. On information and belief, Spectrum and/or one or more of its subsidiaries maintain numerous established physical presences in this district, including the above mentioned stores and, on information and belief, physical locations that support the performance of the Accused Functionalities: 2305 W Lucas Drive Unit E Beaumont Texas, 77706; 1300 Coit Road, Plano Texas 75075; 5161 State Hwy 135N, Tecula, Texas, 75766; 431 Rusk Ave, Wells, Texas 75976; 135 Houston St, Lewisville, Texas 75057; 150 Earnest Ave, Silsbee, Texas 77656; 630 E Gibson St, Jasper, Texas 75951; 2940 Terrell Ave, Beaumont, Texas 77701; 820 S. 27th St, Nederland, Texas, 77627.

TOUCHSTREAM’S PATENTS

20. 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.

21. 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

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