

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.*

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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

**FIRST AMENDED DOCKET CONTROL ORDER**

In accordance with the Joint Stipulation to Modify Deadlines, it is hereby **ORDERED** that the following schedule of deadlines is in effect until further order of this Court:

Default Date	Amended Deadline	
October 28, 2024		*Jury Selection — 9:00 a.m. in <b>Marshall, Texas</b>
7 days before Jury Selection		*Defendant to disclose final invalidity theories, final prior art references/combinations, and final equitable defenses. <sup>1</sup>

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<sup>1</sup> The proposed DCO shall include this specific deadline. The deadline shall read, “7 days before Jury Selection,” and shall not include a specific date.

<b>Default Date</b>	<b>Amended Deadline</b>	
10 days before Jury Selection		*Plaintiff to disclose final election of Asserted Claims. <sup>2</sup>
September 30, 2024		* If a juror questionnaire is to be used, an editable (in Microsoft Word format) questionnaire shall be jointly submitted to the Deputy Clerk in Charge by this date. <sup>3</sup>
September 23, 2024		*Pretrial Conference — 9:00 a.m. in <b>Marshall, Texas</b> before Judge Rodney Gilstrap
September 16, 2024	September 18, 2024	*Notify Court of Agreements Reached During Meet and Confer  The parties are ordered to meet and confer on any outstanding objections or motions <i>in limine</i> . The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference.
September 16, 2024	September 18, 2024	*File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, Responses to Motions <i>in Limine</i> , Updated Exhibit Lists, Updated Witness Lists, and Updated Deposition Designations
September 9, 2024		*File Notice of Request for Daily Transcript or Real Time Reporting.  If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Shawn McRoberts, at <a href="mailto:shawn_mcroberts@txed.uscourts.gov">shawn_mcroberts@txed.uscourts.gov</a> .

<sup>2</sup> Given the Court's past experiences with litigants dropping claims and defenses during or on the eve of trial, the Court is of the opinion that these additional deadlines are necessary. The proposed DCO shall include this specific deadline. The deadline shall read, "10 days before Jury Selection," and shall not include a specific date.

<sup>3</sup> The Parties are referred to the Court's Standing Order Regarding Use of Juror Questionnaires in Advance of *Voir Dire*.

<b>Default Date</b>	<b>Amended Deadline</b>	
September 3, 2024	September 13, 2024	File Motions <i>in Limine</i>  The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.
September 3, 2024	September 13, 2024	Serve Objections to Rebuttal Pretrial Disclosures
August 26, 2024	September 9, 2024	Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
August 12, 2024	August 26, 2024	Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof
August 5, 2024	August 23, 2024	*Response to Dispositive Motions (including <i>Daubert</i> Motions). Responses to dispositive motions that were filed prior to the dispositive motion deadline, including <i>Daubert</i> Motions, shall be due in accordance with Local Rule CV-7(e), not to exceed the deadline as set forth in this Docket Control Order. <sup>4</sup> Motions for Summary Judgment shall comply with Local Rule CV-56.
July 22, 2024	August 12, 2024	*File Motions to Strike Expert Testimony (including <i>Daubert</i> Motions)  No motion to strike expert testimony (including a <i>Daubert</i> motion) may be filed after this date without leave of the Court.

<sup>4</sup> The parties are directed to Local Rule CV-7(d), which provides in part that "[a] party's failure to oppose a motion in the manner prescribed herein creates a presumption that the party does not controvert the facts set out by movant and has no evidence to offer in opposition to the motion."

<b>Default Date</b>	<b>Amended Deadline</b>	
July 22, 2024	August 12, 2024	*File Dispositive Motions  No dispositive motion may be filed after this date without leave of the Court.  Motions shall comply with Local Rule CV-56 and Local Rule CV-7. <sup>5</sup> <u>Motions to extend page limits will only be granted in exceptional circumstances. Exceptional circumstances require more than agreement among the parties.</u>
July 15, 2024	August 9, 2024	Deadline to Complete Expert Discovery
July 1, 2024	July 24, 2024	Serve Disclosures for Rebuttal Expert Witnesses
June 10, 2024	June 11, 2024	Deadline to Complete Fact Discovery and File Motions to Compel Discovery
June 10, 2024	July 1, 2024	Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof
June 6, 2024		Comply with P.R. 3-7 (Opinion of Counsel Defenses)
May 16, 2024	May 30, 2024	*Claim Construction Hearing — 9:00 a.m. in <b>Marshall, Texas</b> before Judge Rodney Gilstrap
May 2, 2024		*Comply with P.R. 4-5(d) (Joint Claim Construction Chart)
April 25, 2024		*Comply with P.R. 4-5(c) (Reply Claim Construction Brief)
April 18, 2024		Comply with P.R. 4-5(b) (Responsive Claim Construction Brief)
April 4, 2024		Comply with P.R. 4-5(a) (Opening Claim Construction Brief) and Submit Technical Tutorials (if any)  Good cause must be shown to submit technical tutorials after the deadline to comply with P.R. 4-5(a).

\* If the deadline under Local Rule CV 7(e) exceeds the deadline for Response to Dispositive Motions, the deadline for Response to Dispositive Motions controls.

<b>Default Date</b>	<b>Amended Deadline</b>	
April 4, 2024		Deadline to Substantially Complete Document Production and Exchange Privilege Logs  Counsel are expected to make good faith efforts to produce all required documents as soon as they are available and not wait until the substantial completion deadline.
March 21, 2024		Comply with P.R. 4-4 (Deadline to Complete Claim Construction Discovery)
March 14, 2024		File Response to Amended Pleadings
February 29, 2024		*File Amended Pleadings  It is not necessary to seek leave of Court to amend pleadings prior to this deadline unless the amendment seeks to assert additional patents.
February 22, 2024		Comply with P.R. 4-3 (Joint Claim Construction Statement)
February 1, 2024		Comply with P.R. 4-2 (Exchange Preliminary Claim Constructions)
January 11, 2024		Comply with P.R. 4-1 (Exchange Proposed Claim Terms)
July 11, 2023	August 4, 2023	Comply with Standing Order Regarding Subject- Matter Eligibility Contentions <sup>6</sup>
July 11, 2023	August 4, 2023	Comply with P.R. 3-3 & 3-4 (Invalidity Contentions)
June 20, 2023		*File Proposed Protective Order and Comply with Paragraphs 1 & 3 of the Discovery Order (Initial and Additional Disclosures)  The Proposed Protective Order shall be filed as a separate motion with the caption indicating whether or not the proposed order is opposed in any part.

<sup>6</sup> <http://www.txed.uscourts.gov/sites/default/files/judgeFiles/EDTX%20Standing%20order%20Re%20Subject%20Matter%20Eligibility%20Contentions%20.pdf> [<https://perma.cc/RQN2-YU5P>]

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