

Google Told To Pay \$339M In WDTX Chromecast Patent Trial

By [Ryan Davis](#) · [Listen to article](#)

Law360 (July 24, 2023, 7:29 PM EDT) -- A Western District of Texas jury said Friday that [Google](#) must pay \$338.7 million in damages after finding that its Chromecast digital media players infringed three patents owned by Touchstream Technologies Inc., which said it met with Google about its technology before Chromecast launched.



Tech giant Google owes nearly \$339 million for patent infringement, a Texas jury found. (AP Photo/Alastair Grant, File)

Following a trial that began Monday before U.S. District Judge Alan Albright, the jury handed down a verdict finding that all the asserted claims in the three patents were

infringed by Google, and rejected the tech giant's arguments that the patents are invalid.

"Touchstream is pleased that its patents were confirmed to be valid and infringed and thanks both the court and the jury for their hard work on this matter," Ryan Dykal of [Shook Hardy & Bacon LLP](#), an attorney for the company, said Friday.

A Google spokesperson said that "we strongly disagree with the verdict and will appeal. We have always developed technology independently and competed on the merits of our ideas, and will continue to defend ourselves against these meritless claims."

Google has challenged all three of Touchstream's patents in inter partes reviews at the Patent Trial and Appeal Board, arguing that they are invalid as obvious based on earlier inventions. The has agreed to review the patents and scheduled oral arguments in all three cases for the same day in June. Final decisions are due in September or October.

Touchstream said in its June 2021 complaint that its founder, David Strober, invented a way to take videos on a smaller device like a smartphone and play them on a television or computer monitor. The company claimed that its patents were infringed by Google's Chromecast devices, which connect to TVs and let users play videos from mobile devices and computers.

At the time of the invention in 2010, Strober was working as an e-learning instructional designer developing online courses at Westchester Community College in Valhalla, New York, the suit said.

The complaint said he developed a prototype for his "groundbreaking concept" and obtained his first patent on it in 2013, "recognizing that his invention could revolutionize how people located, viewed, and shared media."

According to the suit, he formed Touchstream, which did business as Shodogg, raised millions of dollars in investments and developed software that enabled content to be wirelessly cast from a mobile device to another screen.

Touchstream's complaint said the company began discussing a possible partnership with Google in 2011, and the two companies held a video conference where Touchscreen demonstrated its technology and told Google about its pending patent application. Months

later, Google declined to form a partnership with Touchstream, the suit said.

In 2013, Google released its first Chromecast device for playing videos from computers and mobile devices on TVs, which Touchstream said infringed its patents. The suit cited reports that Google had sold 55 million Chromecast devices by 2017, apparently the most recent available sales data.

Touchstream said in its complaint that "unfortunately, the efforts of Touchstream ... to appropriately monetize Mr. David Strober's inventions were significantly hindered by infringement of the Touchstream patents, including by Google."

In court filings, Google claimed that Touchstream's patents "are hardly foundational and do not cover every method of selecting content on a personal device and watching it on another screen."

Google said Touchstream's patents cover a separate and distinct "server system" and "display device," and that Google did not infringe because a single instrument in Chromecast performs both functions.

It also argued that Touchstream's patents were invalid for multiple reasons. At a hearing last month, Judge Albright rejected one of those arguments, that patents were invalid for claiming only the abstract idea of controlling media content over a network.

Google also argued that if it was found to infringe, Judge Albright should not issue an injunction blocking sales of Chromecast, because Touchstream "has for several years been solely a licensing entity," and has no products or customers.

"Touchstream's only business is to attempt to monetize patents. If Touchstream receives damages, it will have fulfilled its only business purpose," Google said.

Following the verdict, Judge Albright praised the jury and the attorneys for both sides. He told the jurors that "you were outstanding this week," adding that "you paid careful attention throughout, you kept good humor throughout, and you worked very hard today."

Judge Albright told the attorneys that "I mean this with as much sincerity as I can muster, this was one of the very, very best trials I've had," citing the level of professionalism and the

quality of the lawyers and witnesses.

"If you go to trial, someone wins and someone doesn't, but no lawyer should walk out of here feeling like you aren't at the very pinnacle of your profession," he said.

In February, Touchstream filed infringement suits in the Eastern District of Texas against cable companies [Comcast](#), Charter and [Altice](#), alleging that the companies' apps allowing customers to watch TV on mobile devices infringe its patents.

Touchstream said it met with all three companies to discuss its technology and possible relationships in 2011, and that like Google, they decided not to work with Touchstream and later launched the allegedly infringing apps and features for their cable services.

Those cases, which have been consolidated before U.S. District Judge Rodney Gilstrap, involve one of the patents in the Google case, as well as two different patents.

The patents at issue in the Google case are U.S. Patent Nos. 8,356,251; 8,782,528 and 8,904,289.

Touchstream is represented by B. Trent Webb, Ryan Dykal, Lauren Douville, Jordan Bergsten, Robert McClendon, Philip Eckert, Gary Miller, Justin Donoho, Sam Bernstein, Sharon Israel, Andrew Long, Michael Gray and Robert Reckers of Shook Hardy & Bacon LLP.

Google is represented by Michael Hendershot, Gregory Lanier, Evan McLean, Gurneet Singh, Tracy Stitt, Jennifer Swize, Edwin Garcia and John Boulé III of [Jones Day](#) and Michael Jones and Shaun Hassett of [Potter Minton PC](#).

The case is Touchstream Technologies Inc. v. Google LLC, case number [6:21-cv-00569](#), in the [U.S. District Court for the Western District of Texas](#).

--Editing by Alex Hubbard.

Update: This story has been updated with a comment from Google and more information about the case.