

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

BLACKBIRD TECH LLC d/b/a
BLACKBIRD TECHNOLOGIES,

Plaintiff,

v.

UBER TECHNOLOGIES, INC.,

Defendant.

C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Blackbird Tech LLC d/b/a Blackbird Technologies (“Blackbird Technologies” or “Plaintiff”) hereby alleges for its Complaint for Patent Infringement against Defendant Uber Technologies, Inc. (“Uber” or “Defendant”), on personal knowledge as to its own activities and on information and belief as to all other matters, as follows:

THE PARTIES

1. Plaintiff Blackbird Technologies is a limited liability company organized under the laws of Delaware, with its principal place of business located at One Boston Place, Suite 2600, Boston, MA 02108.

2. On information and belief, Defendant Uber is a corporation organized and existing under the laws of Delaware with its principal place of business located at 1455 Market Street, San Francisco, CA 94103.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, Title 35, United States Code §§ 100, *et seq.*

4. Subject-matter jurisdiction over Blackbird Technologies' claims is conferred upon this Court by 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 1338(a) (patent jurisdiction).

5. This Court has personal jurisdiction over Defendant because Defendant is subject to general and specific jurisdiction in Delaware. Defendant has also established minimum contacts with this forum. Defendant has been incorporated in Delaware at all relevant times. Defendant regularly conducts business in Delaware, including by operating, supporting, and offering for download and installation a smartphone app that allows users to request on demand transportation services in Delaware. *See, e.g.*, <https://www.uber.com/cities/wilmington-de/>. The acts by Defendant in this district have caused injury to Blackbird Technologies.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c) and § 1400(b) at least because Defendant has transacted business within this district and has committed acts in this district that infringe U.S. Patent No. 7,797,448.

U.S. PATENT NO. 7,797,448

7. U.S. Patent No. 7,797,448 (the "'448 patent") entitled, "GPS-Internet Linkage," was duly and legally issued by the U.S. Patent and Trademark Office on Sept. 14, 2010. Blackbird Technologies is the owner by assignment of all right, title, and interest in and to the '448 patent, including all right to recover for any and all infringement thereof. The '448 patent is valid and enforceable. A true and correct copy of the '448 patent is attached as Exhibit A.

8. Claim 1 of the '448 patent recites, for example, an integrated system whereby computers equipped with Global Positioning System ("GPS") units are configured to identify their respective locations and communicate with each other over the Internet. This integration is directed to a specific improvement in the way computers can transmit messages over the Internet

by enabling transmitted data to have an associated location characteristic that can be used to help identify the transmitting computer, implement security protocols in a private network, or track the movement of transmitting mobile devices, for example. This claim, therefore, is necessarily rooted in computer technology in order to address a challenge specifically arising in the realm of computer networks and particular to the Internet, and requires a GPS unit such that other systems and methods of identifying a transmitting computer's location are not pre-empted, including without limitation by using only Wi-Fi access points and cellular tower locations.

9. The integration of Internet communications with GPS specifically, as opposed to other means for determining the location of mobile devices, was a novel approach at the time of the invention that coincided with then Vice President Al Gore's announcement of a GPS modernization initiative to make GPS more accessible to the public by adding new civil signals for future GPS satellites. *See* Press Release, The White House, Vice President Gore Announces New Global Positioning System Modernization Initiative (Jan. 25, 1999), *available at* <http://clinton6.nara.gov/1999/01/1999-01-25-vice-president-gore-announces-new-global-positioning-system.html>.

10. Claim 4 of the '448 patent depends upon claim 1 to further recite, for example, that the integrated system creates localized computer networks based on geographic proximity of the computers equipped with GPS units.

11. Claim 6 of the '448 patent depends upon claim 1 to further recite, for example, that the integrated system provides automatic identification of the computers equipped with GPS units.

12. Claim 8 of the '448 patent recites, for example, a method for identifying the locations of computers equipped with GPS units by using the integrated system of claim 1.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,797,448

13. Blackbird Technologies reasserts and incorporates by reference Paragraphs 1 through 12 of this Complaint as if fully set forth herein.

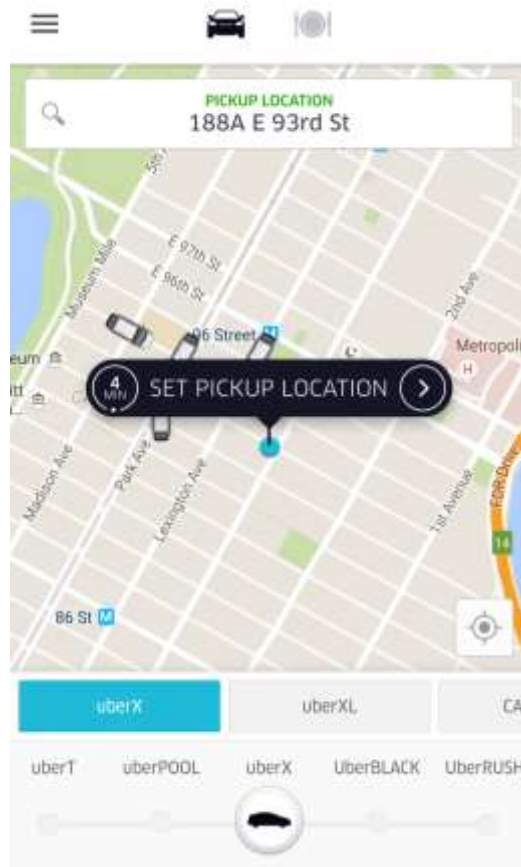
14. Defendant has become aware of the '448 patent at least by virtue of the filing of this Complaint.


15. On information and belief, Uber hosts, develops, programs, operates, supports, and/or provides network services to enable on demand transportation (“Uber Services”). *See, e.g.,* <https://developer.uber.com/docs/api-overview> (providing an overview of the Uber API, which is characterized as a RESTful API).

16. On information and belief, Uber develops, programs, supports, and makes available for download and installation mobile apps for Uber customers (“Client App”) and Uber drivers (“Driver App”). The Client App and Driver App can be installed on computing devices (“Client Device” and “Driver Device,” respectively) running several different operating systems, including but not limited to certain versions of iOS, Android, BB OS, and Windows Phone.

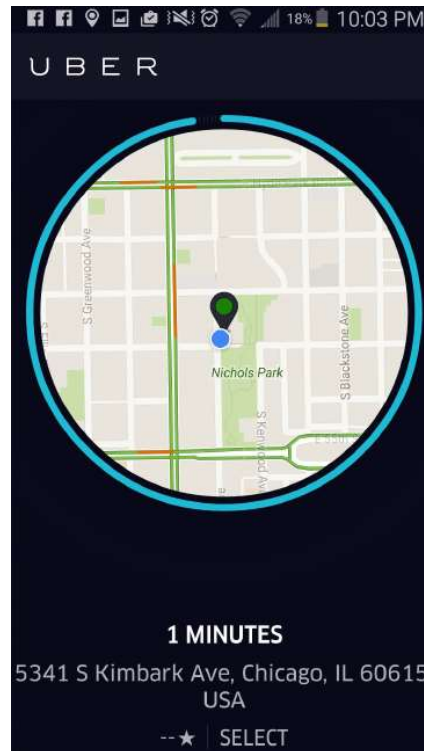
17. On information and belief, at least some of the functionality available on the Client App is accessible from <https://m.uber.com/>.

18. On information and belief, a Client App user can request a ride from an Uber driver. The default pickup location for the ride is at or near the current location of the Client Device. For example:



(Samsung Galaxy S6 screenshot upon launching installed Client App.) *See also, e.g.,* <https://help.uber.com/h/7ef159ca-3674-4242-bc0c-b29024958b26> (“HOW DO I REQUEST A RIDE? We automatically use GPS and Wi-Fi to set your pickup location.”). If the pickup location is not at the current location, selecting the  icon on the Client App will center the pickup location onto the current location.

19. On information and belief, when a Client App user requests a ride, information including but not limited to the latitude and longitude pair of the pickup location is transmitted to the Uber Services via the HTTP protocol. *See, e.g.,* <https://developer.uber.com/docs/v1-requests>. Also via the HTTP protocol, an available Uber driver may receive notification of the Client App user’s ride request on a Driver Device, which displays a map indicating the requested pickup location. For example:



(*userX*, *userXL* & *userSELECT* Welcome Packet, at 9, http://www.driveuberdfw.com/s/Uber-WelcomePacket_DFW.pdf.) See also, e.g., *The Complete Uber Partner Guide* at <https://www.youtube.com/watch?v=10eiFrRqWII>.

20. On information and belief, the Uber Services determines a driver's availability in part by comparing the current location of the Driver Device with the requested pickup location. See, e.g., <https://developer.uber.com/docs/v1-estimates-time> (the Uber Services returning the product IDs associated with available Driver Devices for a specified latitude/longitude).

21. On information and belief, when a driver accepts a ride request, the Driver App transmits information indicating such acceptance to the Uber Services via the HTTP protocol, which then notifies the Client Device via the HTTP protocol accordingly. See, e.g., <https://developer.uber.com/docs/tutorials-rides-api>; <https://developer.uber.com/docs/v1-requests-current>.

22. The Client Device displays information about the assigned driver and shows the location of the Driver Device as it travels to the pickup location. *See, e.g., Learn the Uber Basics* at <https://www.youtube.com/watch?v=G8VjcZeuvmo>.

23. On information and belief, in addition to communicating a ride request and a driver’s acceptance, the Uber Services enable the Client Device and Driver Device to communicate other information with each other via the HTTP protocol, including but not limited to ride cancellations. For example:



(<https://developer.uber.com/docs/tutorials-rides-api>.)

24. On information and belief, the Client App transmits Client Device location information determined at least in part from the Client Device GPS to the Uber Services over the Internet. *See, e.g.,* <https://www.uber.com/legal/other/android-permissions/> (requiring “precise location (GPS and network-based)” and “full network access”).

25. On information and belief, the Driver App transmits Driver Device location information determined at least in part from the Driver Device GPS to the Uber Services over the Internet. *See, e.g.,* <https://www.uber.com/legal/privacy/drivers-us/en/>; <https://drive.uber.com/joburg/faqs/> (“My app says: ‘Unable to determine location’. What should I do? ... Verify that location services is ‘ON’ [and] that ‘Mode’ is set to ‘High Accuracy’”).

26. Therefore, the Uber Services integrated with existing Client Devices and Driver Devices configured to determine their respective locations at least in part from GPS data (the “Accused System”) falls within the scope of at least claim 1 of the ’448 patent.

27. The Accused System also falls within the scope of claim 4 of the ’448 patent because, for example, it is configured to restrict the universe of integrated Driver Devices that a Client Device can communicate with based upon a location parameter. For example:

```
{
  "times": [
    {
      "product_id": "5f41547d-805d-4207-a297-51c571cf2a8c",
      "display_name": "UberBLACK",
      "estimate": 410
    },
    {
      "product_id": "694558c9-b34b-4836-855d-821d68a4b944",
      "display_name": "UberSUV",
      "estimate": 535
    },
    {
      "product_id": "65af3521-a04f-4f80-8ce2-6d88fb6648bc",
      "display_name": "uberTAXI",
      "estimate": 294
    },
    {
      "product_id": "17b011d3-65be-421d-adf6-a5480a366453",
      "display_name": "uberX",
      "estimate": 288
    }
  ]
}
```

(<https://developer.uber.com/docs/v1-estimates-time> (the Uber Services returning the product IDs associated with available Driver Devices for a specified latitude/longitude).)

28. The Accused System also falls within the scope of claim 6 of the ’448 patent because it is configured to automatically identify the Driver Device to the Client Device and vice versa. For example, when a driver accepts a ride request, identifying information about the Driver Device and its user is transmitted to the Client Device,


```

{
  "request_id": "17cb78a7-b672-4d34-a288-a6c6e44d5315",
  "status": "accepted",
  "location": {
    "latitude": 37.7886532015,
    "longitude": -122.3961987534,
    "bearing": 135
  },
  "pickup": {
    "latitude": 37.7872486012,
    "longitude": -122.4026315287,
    "eta": 5
  },
  "destination": {
    "latitude": 37.7766874,
    "longitude": -122.394857,
    "eta": 19
  },
  "driver": {
    "phone_number": "(555)555-5555",
    "rating": 5,
    "picture_url": "https://d1w2poirtb3as9.cloudfront.net/img.jpeg",
    "name": "Bob"
  },
  "vehicle": {
    "make": "Bugatti",
    "model": "Veyron",
    "license_plate": "I<3Uber",
    "picture_url": "https://d1w2poirtb3as9.cloudfront.net/car.jpeg"
  },
  "surge_multiplier": 1.0,
  "eta": 5
}

```

(<https://developer.uber.com/docs/v1-requests-details> (for a Driver Device that accepted a ride request, the Uber Services returning a series of parameters identifying the Driver Device and its user)), and identifying information about the Client Device and its user is transmitted to the Driver Device. *See, e.g.*, Pub. No. 2011/0313804 at ¶ [0014] (“The driver may also be provided information about the customer (e.g. the picture of the customer, the customer’s rating, the customer’s precise location).”); Pub. No. 2016/0110836 at ¶ [0023] (“In one example, the pickup location can correspond to a current location of the client device 180 that is determined by a global positioning system (GPS) resource of the client device 180.”); *The Complete Uber*

Partner Guide at <https://www.youtube.com/watch?v=10eiFrRqWII> (displaying the customer's name and pickup location on the Driver Device).

Direct Infringement of System Claims 1, 4, and 6 of U.S. Patent No. 7,797,448

29. Defendant, pursuant to 35 U.S.C. § 271(a), has directly infringed and continues to directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the '448 patent, including at least claims 1, 4, and 6, by using and making, in this judicial district and/or elsewhere in the United States, the Accused System. For example, Uber controls the Accused System as a whole by running, operating, and/or supporting its Uber Services or otherwise making its Uber Services available to Client Devices and Driver Devices, and obtain benefits from such use at least by collecting Uber transportation payments. Uber makes the Accused System by hosting and/or launching its Uber Services or otherwise making its Uber Services available to existing Client Devices and Driver Devices configured to determine their respective locations at least in part from GPS data such that they are capable of communicating with each other over the Internet.

Inducement of System Claims 1, 4, and 6 of U.S. Patent No. 7,797,448

30. At least on or after the filing of this Complaint, Defendant, pursuant to 35 U.S.C. § 271(b), knowingly and intentionally actively induces the infringement of one or more claims of the '448 patent, including at least claims 1, 4, and 6, by instructing and otherwise encouraging infringement and by making the Client App and Driver App available to Uber customers and drivers to download and install onto their respective Client Devices and Driver Devices in order to use the Accused System. For example, when the Client App is installed, Uber requires device permissions that include access to “precise location (GPS and network-based)” and “full network access.” <https://www.uber.com/legal/other/android-permissions/>; *see also, e.g.,*

<https://www.uber.com/legal/other/ios-permissions/>. Uber requires drivers installing and/or using the Driver App to consent to Uber's collection of location-based services, which includes "the use of the precise location." <https://www.uber.com/legal/privacy/drivers-us>; *see also, e.g.*, <https://drive.uber.com/joburg/faqs/> ("My app says: 'Unable to determine location'. What should I do? ... Verify that location services is 'ON' [and] that 'Mode' is set to 'High Accuracy'"). Uber also provides many instructional videos and other promotional materials demonstrating how the Client Device and Driver Device can communicate with each other to facilitate transportation services in a way that infringes the '448 patent. *See, e.g., Learn the Uber Basics* at <https://www.youtube.com/watch?v=G8VjcZeuvmo>; *The Complete Uber Partner Guide* at <https://www.youtube.com/watch?v=10eiFrRqWII>.

31. An Uber customer, pursuant to 35 U.S.C. § 271(a), directly infringes, literally and/or under the doctrine of equivalents, one or more claims of the '448 patent, including at least claims 1, 4, and 6, by using the Accused System. For example, an Uber customer controls the Accused System as a whole by using a Client Device in order to transmit a transportation request to a Driver Device and otherwise communicate with that Driver Device over the Internet to facilitate a successful transaction, and obtains benefits from such use at least by virtue of the Uber ride.

32. An Uber driver, pursuant to 35 U.S.C. § 271(a), directly infringes, literally and/or under the doctrine of equivalents, one or more claims of the '448 patent, including at least claims 1, 4, and 6, by using the Accused System. For example, an Uber driver controls the Accused System as a whole by using a Driver Device in order to accept a transportation request from a Client Device and otherwise communicate with that Client Device over the Internet to facilitate a

successful transaction, and obtains benefits from such use at least by virtue of customer payment for the Uber ride.

Direct Infringement of Method Claim 8 of U.S. Patent No. 7,797,448

33. Defendant, pursuant to 35 U.S.C. § 271(a), has directly infringed and continues to directly infringe, literally and/or under the doctrine of equivalents, claim 8 of the '448 patent by using, in this judicial district and/or elsewhere in the United States, the Accused System to identify the locations of Client Devices and Driver Devices. *See, e.g.*, User Privacy Statement (“**Location Information:** When you use the Services for transportation or delivery, we collect precise location data about the trip from the Uber app used by the Driver. If you permit the Uber app to access location services through the permission system used by your mobile operating system (“platform”), we may also collect the precise location of your device when the app is running in the foreground or background.”) (emphasis in original), *available at* <https://www.uber.com/legal/privacy/users/en/>; Driver Privacy Statement (“Uber may collect personal information from or about you when you create an account for, and use, the Uber Services, including location data, which information may be stored, processed, and/or accessed by Uber, as well as its service providers By submitting information to Uber during the account creation process and/or by using the Services, you consent to such collection and use of personal data.”), *available at* <https://www.uber.com/legal/privacy/drivers-us/en/>; U.S. Patent No. 9,066,206 at 5:1-6 (“By periodically receiving data 161, 171, for example, real-time position information for the requesters and the service providers can be provided to system 100 (e.g., which can provide updated position information if a requester or provider moves from one area to another.”); 9:11-18 (“Computing devices corresponding to requesters and service providers can communicate with system 100 in order to provide their respective current position

information (e.g., GPS data) to system 100. For example, position information for requesters and position information for available service providers can be provided when a service application is launched or operated on the respective computing devices.”).

Inducement of Method Claim 8 of U.S. Patent No. 7,797,448

34. At least on or after the filing of this Complaint, Defendant, pursuant to 35 U.S.C. § 271(b), knowingly and intentionally actively induces the infringement of claim 8 of the '448 patent by instructing and otherwise encouraging infringement and by promoting, advertising, and instructing Client Device users about the Accused System's ability to enable Client Devices to track its own location and the location of Driver Devices to facilitate on demand transportation. *See, e.g., Learn the Uber Basics* at <https://www.youtube.com/watch?v=G8VjcZeuvmo> (showing the Client Device recognizing its own location and tracking the location of a Driver Device en route to the pickup location); <https://help.uber.com/h/7ef159ca-3674-4242-bc0c-b29024958b26> (“HOW DO I REQUEST A RIDE? We automatically use GPS and Wi-Fi to set your pickup location.”).

35. Uber customers, pursuant to 35 U.S.C. § 271(a), directly infringe, literally and/or under the doctrine of equivalents, claim 8 of the '448 patent by using the Client Device component of the Accused System to track their own locations and the locations of Driver Devices to facilitate on demand transportation. For example, the locations of Driver Devices are tracked by a Client Device at least upon launching the Client App and/or booking a ride with a particular Uber driver.

Contributory Infringement of Claims 1, 4, 6, and 8 of U.S. Patent No. 7,797,448

36. At least on or after the filing of this Complaint, Defendant, pursuant to 35 U.S.C. § 271(c), contributes to the infringement of at least claims 1, 4, 6, and 8 of the '448 patent by

knowingly and intentionally selling and offering to sell within the United States the Client App to Uber customers. The Client App is a material part of the Accused System covered by the '448 patent because, *inter alia*, it is capable of (i) identifying the location of the Client Device it is installed on, (ii) receiving the location of Driver Devices over the Internet through the Uber Services, and (iii) communicating with a Driver Device over the Internet through the Uber Services. Defendant knows the Client App is especially made or especially adapted for use in infringing the '448 patent and is not a staple article or commodity of commerce suitable for substantial noninfringing use because the aforementioned capabilities cannot be circumvented once the Client App is installed onto a Client Device, and the location of the Client Device and a Driver Device must be identified by the Client App in order to request and book transportation. Defendant sells and offers to sell within the United States the Client App by, *inter alia*, charging Uber customers a "booking fee," previously known as "the Safe Rides Fee," for each trip made with the Client App in accordance with its licensing policies. *See, e.g.*, <https://help.uber.com/h/4fa83c50-ab30-434c-b911-f63ad11cd4d9> (Uber Help page explaining what the customer "booking fee" is).

37. On information and belief, the owner(s) of the '448 patent have complied with 35 U.S.C. § 287(a) at all relevant times.

38. Blackbird Technologies has sustained damages as a direct and proximate result of Defendant's infringement of the '448 patent.

39. As a consequence of Defendant's infringement of the '448 patent, Blackbird Technologies is entitled to the recovery of past damages in the form of, at a minimum, a reasonable royalty.

40. On information and belief, Defendant will continue to infringe the '448 patent unless enjoined by this Court.

41. As a consequence of continued infringement of the '448 patent by Defendant, Blackbird Technologies has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts unless Defendant is enjoined by this Court from committing further acts of infringement. Blackbird Technologies has no adequate remedy at law. In the event this Court determines that it will not award injunctive relief, this Court should require Defendant to pay damages for past infringement of the '448 patent and royalties for its infringement of the '448 patent on a going-forward basis.

PRAYER FOR RELIEF

WHEREFORE, Blackbird Technologies respectfully requests that this Court enter judgment against Defendant, as follows:

A. Adjudging that Defendant has infringed one or more claims of the '448 patent, including at least claims 1, 4, 6, and 8 literally and/or under the doctrine of equivalents, in violation of 35 U.S.C. §§ 271(a), (b), and (c);

B. An award of damages to be paid by Defendant adequate to compensate Blackbird Technologies for Defendant's past infringement and any continuing or future infringement up until the date such judgment is entered, and in no event less than a reasonable royalty, including interest, costs, and disbursements pursuant to 35 U.S.C. § 284;

C. Granting Blackbird Technologies permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining Defendant, its officers, agents, servants, employees, affiliates, and all others in active concert therewith from future acts of infringing the '448 patent;

D. In the event that this Court determines that it will not enter injunctive relief, ordering Defendant to continue to pay royalties to Blackbird Technologies for infringement of the '448 patent on a going-forward basis;

E. Adjudging that this case be exceptional under 35 U.S.C. § 285 and awarding enhanced damages, including costs and attorneys' fees, to Blackbird Technologies;

F. Awarding Blackbird Technologies pre-judgment and post-judgment interest at the maximum rate permitted by law on its damages; and

G. Granting Blackbird Technologies such further relief as this Court deems just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Blackbird Technologies demands a trial by jury on all claims and issues so triable.

Dated: July 8, 2016

STAMOULIS & WEINBLATT LLC

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