

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

BLACKBIRD TECH LLC d/b/a
BLACKBIRD TECHNOLOGIES,

Plaintiff,

v.

VIA TRANSPORTATION, 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 Via Transportation, Inc. (“Via” 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 Via is a corporation organized and existing under the laws of Delaware with its principal place of business located at 10 Crosby Street, Floor 2, New York, NY 10001.

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 has been incorporated in Delaware at all relevant times and has purposely availed itself of the privileges and benefits of the laws of Delaware.

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 is subject to personal jurisdiction in this district and resides in this district.

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, Via hosts, develops, programs, operates, supports, and/or provides network services to enable on demand transportation (“Via Services”). *See, e.g.*, <http://platform.ridewithvia.com> (“Our field-tested technology is deployable within weeks, hosted in the Cloud, and updated dynamically.”); Via Terms of Use (“The ‘Service’ means any website, mobile application, or Internet service under Via’s control, whether partial or otherwise, in connection with providing Via’s online platform that connects users with vehicle-sharing transportation providers in major cities.”), available at <http://ridewithvia.com/terms-of-use/>.

16. On information and belief, Via develops, programs, supports, and makes available for download and installation a mobile app for Via customers (“Client App”), and provides Via drivers with an iPad pre-loaded with a mobile app (“Driver App”). For example:

Driving with Via

Via iPad app provides a route for every car



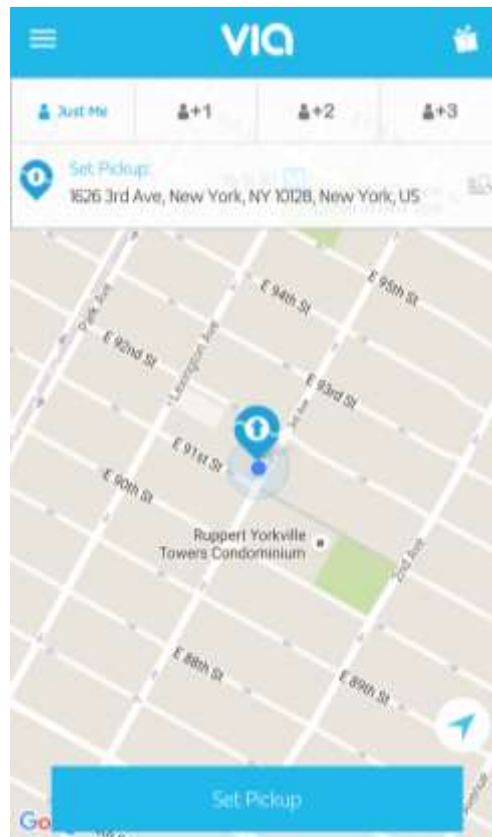
(adapted screenshot from Via Overview for Driver Partners video (“All Via driver partners use an iPad provided for them with Via’s App, which gives each driver turn-by-turn directions along


the route and information about pickups and drop-offs.”), *available at*

<http://nyc.drivewithvia.com/>.) Alternatively, Via drivers can have Via install the Driver App onto their own personal iPad. *See, e.g.,* <http://drivewithvia.com/support/using-your-own-ipad/> (“Bring your iPad by the Via Office to have the Via Driver App installed. The App must be installed in-house at this time.”).

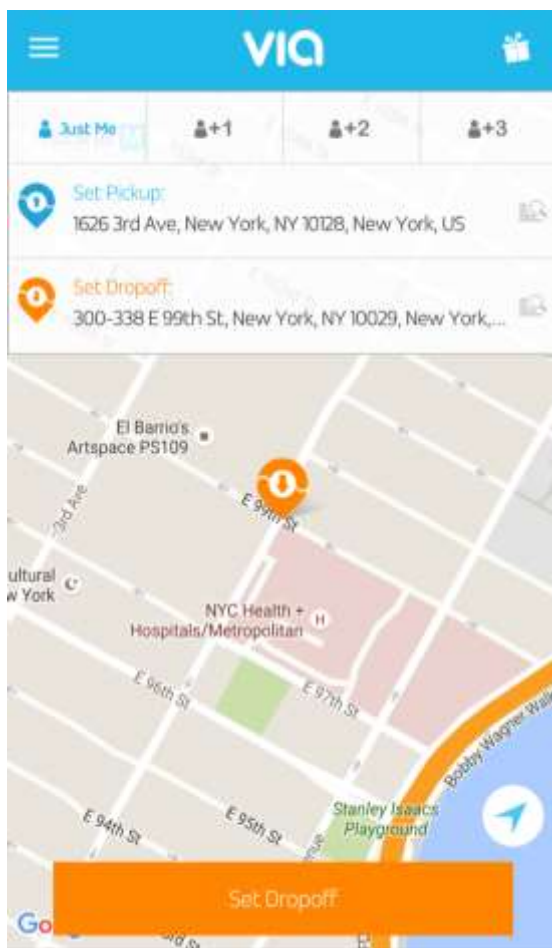
17. On information and belief, the Client App can be installed on a computing device (“Client Device”) running several different operating systems, including but not limited to certain versions of iOS and Android. The Driver App can be installed on a computing device (“Driver Device”) running certain versions of iOS.

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

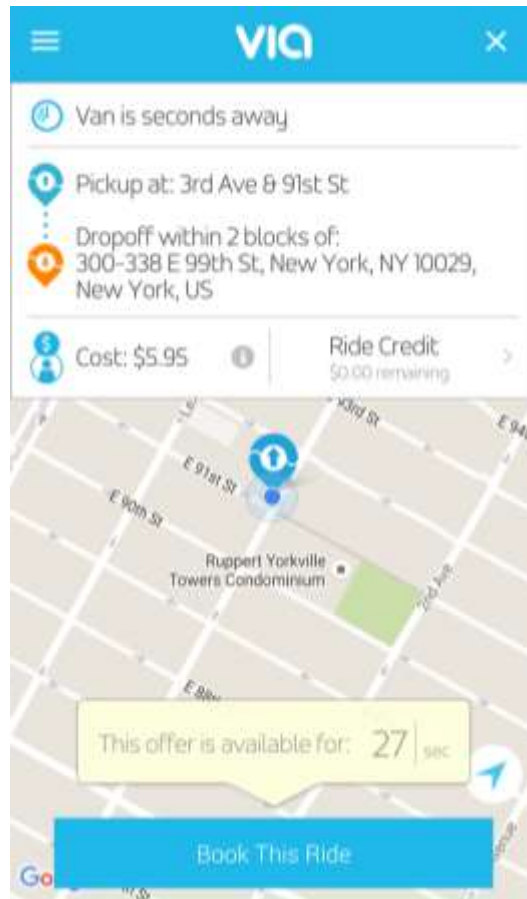


(Samsung Galaxy S6 screenshot upon launching installed Client App.) If the pickup location is not at the current location, selecting the  icon on the Client App will center the pickup location onto the current location.

19. On information and belief, a Client App user requests a ride after setting both a pickup location and a drop-off location. This location information is then transmitted over the Internet to the Via Services in order to assign a Via driver. For example:



(Samsung Galaxy S6 screenshot of Client App while setting drop-off location.)



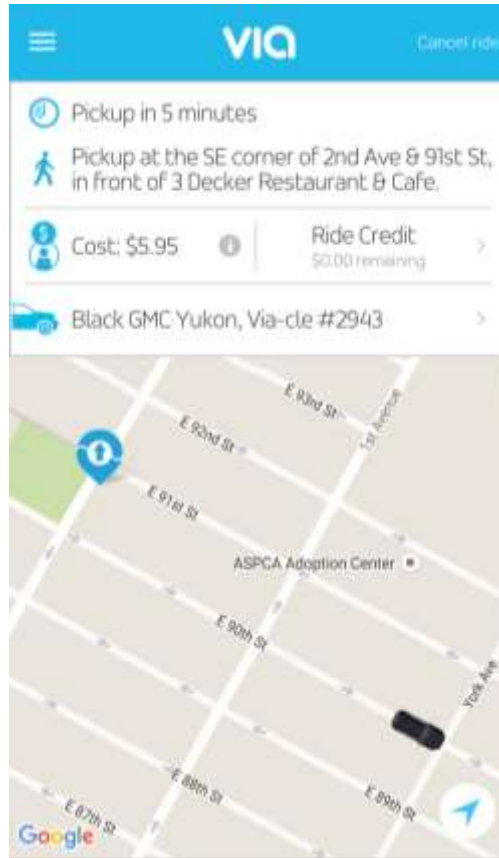
(Samsung Galaxy S6 screenshot of Client App receiving Via driver assignment.) *See also* <http://ridewithvia.com/> (“Book a ride and in under a second our algorithms match you with a vehicle going your way.”).

20. On information and belief, the Via Services may transmit a ride assignment to a Driver Device over the Internet. The Driver Device then displays identifying information about the Via customer and a map indicating the requested pickup location. For example:



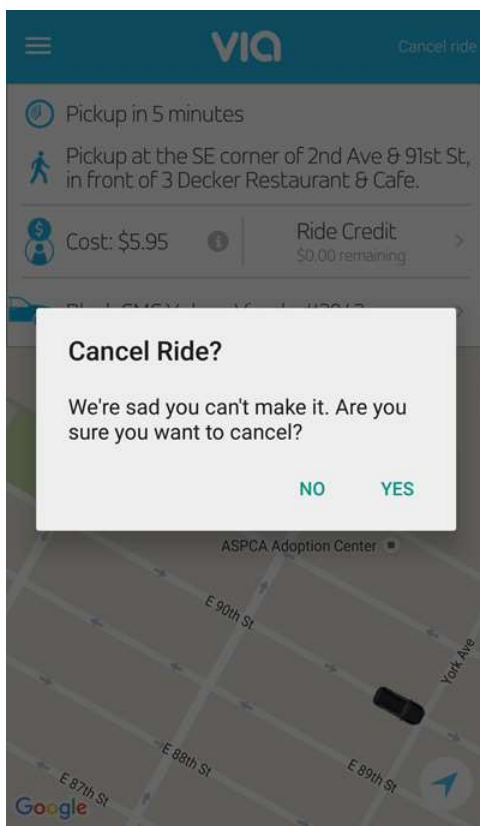
(adapted screenshot from Via Overview for Driver Partners video (displaying pickup location, drop-off location, and name of Via passenger on a Driver Device), *available at* <http://drivewithvia.com/support/via-best-practices-no-shows/>).

21. On information and belief, after a Via driver is assigned by the Via Services, the Client Device displays information about the assigned driver and shows the location of the Driver Device as it travels to the pickup location. For example:



(Samsung Galaxy S6 screenshot of Client App after selecting “Book This Ride”) *See also, e.g.,* <http://support.ridewithvia.com/customer/en/portal/articles/1810925-where-do-i-wait-for-my-via-> (“Want to track your vehicle while you wait? In the app, zoom out from your pick-up spot, and you’ll be able to follow the vehicle on the map as it approaches.”).

22. On information and belief, the Via Services enable the Client Device and Driver Device to communicate with each other over the Internet, including but not limited to communicating ride cancellations. For example:



(Samsung Galaxy S6 screenshot of Client App requesting confirmation of ride cancellation.) *See also, e.g.,* <http://support.ridewithvia.com/customer/en/portal/articles/2045556-what-if-i-need-to-cancel-my-via-ride-> (“You can cancel your ride at any time. Remember that booking and then canceling rides can delay other members, so we’ll need to charge you a cancellation fee of \$3 if you cancel more than 60 seconds after pressing **Book Ride**.”); Via Reminder: Can’t Find a Rider video (“[Y]ou can tap ‘No Show’ on the app. This cancels the ride from the system and charges the rider a few dollars.”), *available at* <http://drivewithvia.com/support/via-best-practices-no-shows/>.

23. On information and belief, the Client App transmits Client Device location information determined at least in part from the Client Device GPS to the Via Services over the Internet. For example:



Via – Smarter Shared Rides

Version 1.5.3 can access



Location

- approximate location (network-based)
- precise location (GPS and network-based)



Other

- full network access
- prevent phone from sleeping
- read Google service configuration
- receive data from Internet
- control vibration
- view network connections

(adapted Via for Android permissions screenshot (requiring “precise location (GPS and network-based),” “full network access,” and “receive data from Internet”).) *See also, e.g.,*

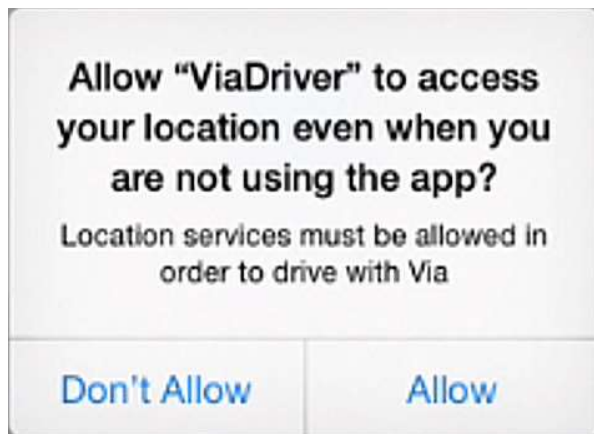
<http://support.ridewithvia.com/customer/en/portal/articles/1810749-why-is-my-place-pin-in-the-middle-of-the-ocean-> (“Please make sure that Location Services are enabled for the Via app on

your phone”); Giulia Olsson, *Via, the Ride-Sharing App, Expands Down to 14th*, Observer (June 5, 2015) (“Via’s algorithm uses GPS coordinates to match users with nearby travelers.

That way, many riders get in the SUV and head the same way.”), *available at*

<http://observer.com/2015/06/via-the-ride-sharing-app-expands-down-to-14th/>.

24. On information and belief, the Driver App transmits Driver Device location information determined at least in part from the Driver Device GPS to the Via Services over the Internet. For example:



<http://drivewithvia.com/push/new-via-driver-app-3-0/> (instructing Via drivers to ensure location services are enabled on their Driver Devices). *See also, e.g.,*

<http://drivewithvia.com/support/tracking-hours-with-via/> (“Remember: your GPS must match the Terminal Location in order to actually begin recording hours.”);

<http://support.ridewithvia.com/customer/en/portal/articles/1810925-where-do-i-wait-for-my-via-> (“Want to track your vehicle while you wait? In the app, zoom out from your pick-up spot, and you’ll be able to follow the vehicle on the map as it approaches.”).

25. Therefore, the Via 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.

26. The Accused System also falls within the scope of claim 4 of the ’448 patent because, for example, it uses an algorithm to assign available drivers that, upon information and belief, relies in part on their relative distance from Via riders along a given route. *See, e.g.,* Giulia Olsson, *Via, the Ride-Sharing App, Expands Down to 14th*, Observer (June 5, 2015) (“Via’s algorithm uses GPS coordinates to match users with nearby travelers. That way, many riders get in the SUV and head the same way.”), available at <http://observer.com/2015/06/via->

[the-ride-sharing-app-expands-down-to-14th/](#); <http://ridewithvia.com/> (“Our average wait time is 5 minutes.”).

27. 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 the Via Services assigns a driver to a ride request, identifying information about the Driver Device and its user is transmitted to the Client Device, *see, e.g., supra* ¶ 21, and identifying information about the Client Device and its user is transmitted to the Driver Device. *See, e.g., supra* ¶ 20.

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

28. 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, Via controls the Accused System as a whole by running, operating, and/or supporting its Via Services or otherwise making its Via Services available to Client Devices and Driver Devices, and obtains benefits from such use at least by collecting Via transportation payments for rides booked through the Client App. Via makes the Accused System by hosting and/or launching its Via Services or otherwise making its Via 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

29. 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 Via customers on their respective Client Devices and Driver Devices in order to use the Accused System. For example, the Client App requires device permissions that include access to “precise location (GPS and network-based),” “full network access,” and “receive data from Internet.” *See supra* ¶ 23. And, Via instructs Driver Device users to make sure their GPS location modes are enabled. *See supra* ¶ 24. Via 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 generally, e.g.,* <http://support.ridewithvia.com/customer/en/portal/articles/1810894-how-do-i-book-a-ride->; Via Overview for Driver Partners video, *available at* <http://nyc.drivewithvia.com/>.

30. A Via 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, a Via customer controls the Accused System as a whole by using a Client Device in order to transmit a transportation request comprising pickup and drop-off locations to the Via Services in order to assign a Via driver, and otherwise communicate with the assigned Via driver's Driver Device over the Internet, and obtains benefits from such use at least by virtue of the Via ride.

31. A Via 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, a Via driver controls the Accused System as a whole by using a Driver Device in order to accept ride assignments and otherwise

communicate with Client Devices over the Internet to facilitate successful transactions, and obtains benefits from such use at least by getting paid an hourly wage.

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

32. 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.*, Via Privacy Policy (“We collect and store your location information if you enable your mobile device to send it to us.”), available at <http://ridewithvia.com/privacy-policy/>; *supra* ¶ 24 (citing evidence that the Via Services collects the locations of Driver Devices).

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

33. 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.*, <http://support.ridewithvia.com/customer/en/portal/articles/1810925-where-do-i-wait-for-my-via-> (“Want to track your vehicle while you wait? In the app, zoom out from your pick-up spot, and you’ll be able to follow the vehicle on the map as it approaches.”).

34. Via 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 its own location 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 Via driver.

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

35. 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 Via 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 a Driver Device over the Internet through the Via Services, and (iii) communicating with a Driver Device over the Internet through the Via 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 before a ride request can be completed. Defendant sells and offers to sell within the United States the Client App by, *inter alia*, charging Via customers a fee for every trip in accordance with its licensing policies. *See, e.g.*, Via Terms of Use ("Via charges a fee (the 'Fee') for use of the Service. You will be charged when your Ride is complete. All Fees are non-refundable."), available at <http://ridewithvia.com/terms-of-use/>.

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

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

38. 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.

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

40. 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

OF COUNSEL

Christopher Freeman
cfreeman@blackbird-tech.com
Wendy Verlander
wverlander@blackbird-tech.com
John Handy
jhandy@blackbird-tech.com
Blackbird Tech LLC d/b/a
Blackbird Technologies
One Boston Place, Suite 2600
Boston, MA 02108
(617) 307-7100

/s/ Stamatios Stamoulis
Stamatios Stamoulis #4606
stamoulis@swdelaw.com
Richard C. Weinblatt #5080
weinblatt@swdelaw.com
Two Fox Point Centre
6 Denny Road, Suite 307
Wilmington, DE 19809
(302) 999-1540

Attorneys for Plaintiff
Blackbird Tech LLC
d/b/a Blackbird Technologies