IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BLACKBIRD TECH LLC d/b/a
BLACKBIRD TECHNOLOGIES,

  Plaintiff,

v.

LYFT, INC.

  Defendant.

Case No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Blackbird Tech LLC d/b/a Blackbird Technologies ("Blackbird Technologies") hereby alleges against Defendant Lyft, Inc. ("Lyft" 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 Delaware limited liability company with its principal place of business located at 200 Baker Ave., Suite 203, Concord, MA 01742.

2. Lyft is a corporation organized and existing under the laws of Delaware, with its principal place of business located at 185 Berry Street, San Francisco, CA 94107.

JURISDICTION AND VENUE

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

4. This Court has subject matter jurisdiction over this action per 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 the state of Delaware. Defendant is subject to personal jurisdiction because Defendant is a Delaware corporation and because Defendant has transacted business within Delaware and committed acts of patent infringement in Delaware. Defendant has made certain minimum contacts with Delaware such that the maintenance of this suit does not offend traditional notions of fair play and substantial justice. Defendant regularly conducts business in Delaware, including by operating, supporting, and offering for download and installation a smartphone app that allows users in Delaware (Lyft riders and drivers) to request and/or fulfill on demand transportation services in Delaware. *See, e.g.,* https://www.lyft.com/cities (listing available Lyft cities, which includes Wilmington, Delaware).[1] Defendant has marketed, offered, and provided the infringing instrumentality in Delaware to citizens of Delaware through various interactive means, including but not limited to its website (lyft.com) and the Apple and Google app stores. The exercise of personal jurisdiction comports with Defendant's right to due process because, as described above, Defendant has purposefully availed itself of the privilege of Delaware corporate laws and of conducting activities within Delaware such that it should reasonably anticipate being haled into court here. As alleged herein, the acts by Defendant in this district have caused injury to Blackbird Technologies.

6.   Venue is proper in the District of Delaware pursuant to 28 U.S.C. § 1391(b) and (c) and § 1400(b) at least because Defendant resides in the District of Delaware, transacted business within this district, and committed acts in this district that infringe U.S. Patent No. 6,754,580.

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[1] All websites cited in this Complaint were accessed on or around March 19, 2019.

THE PATENT-IN-SUIT

7.   U.S. Patent No. 6,754,580 (the "'580 patent") entitled, "System for Guiding Vehicles," was duly and legally issued by the U.S. Patent and Trademark Office on June 22, 2004. Blackbird Technologies is the owner by assignment of all right, title, and interest in and to the '580 patent, including all right to recover for any and all infringement thereof. The '580 patent is valid and enforceable. A true and correct copy of the '580 patent is attached as Exhibit A.

8.   The claims of the '580 patent are directed to an unconventional vehicle monitoring and guidance system that allows for adaptive real-time vehicle management and route navigation. Prior to the claimed invention, vehicle guidance systems were limited in that they determined the "optimal route for the vehicles based solely on the current traffic flow." Ex. A, '580 patent at 1:31-40. These systems did not "disclose guiding that takes place in order to optimize the entire traffic operation in the system." *Id*. at 2:26-28.

9.   The claimed invention improves the functioning of these conventional systems by allowing for dynamic route guidance based on information from vehicles operating in the vehicle management system. The claimed invention achieves "optimal guidance" by utilizing a control center that receives vehicle-specific information (*e.g.*, position, speed, location, vehicle type, destination) from vehicles having a unique identifier and are actively logged-into the system. This way, the control center can manage the flow of vehicles in the system and provide real-time route guidance to each vehicle using information "greater than that indicated by earlier inventions." *Id*. at 2:64-65.

10.   The claimed invention improves the accuracy and overall functioning of vehicle management and associated vehicle route guidance computer systems by introducing an

unconventional technological solution (*e.g.*, a dynamic monitoring and route guidance architecture using specific real-time data from vehicles or operators that are actively logged on to the system). The improved functioning of these systems further allows for real-time displays of vehicle route guidance, and centralized invoicing for individual vehicles.

<div align="center">COUNT I – INFRINGEMENT OF THE '580 PATENT</div>

11.   Blackbird Technologies reasserts and incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

12.   On information and belief, Lyft hosts, develops, programs, operates, supports, and/or provides network services to enable on demand transportation services for both riders and drivers ("Lyft Services"). *See generally, e.g.*, https://developer.lyft.com/docs (providing an overview of the Lyft API).

13.   Lyft develops, programs, supports, and makes available for download and installation a mobile app for both Lyft riders and drivers ("Lyft App"), and a mobile app solely for Lyft drivers ("Lyft Driver App") (collectively, the "Lyft Apps"). A Lyft driver can access the Lyft Services through either the Lyft App or Lyft Driver App. *See, e.g.*, https://help.lyft.com/hc/en-us/articles/115013079208-Lyft-Driver-app. The Lyft Apps can be installed on computing devices (rider or driver devices) running several different operating systems, including but not limited to certain versions of iOS and Android.
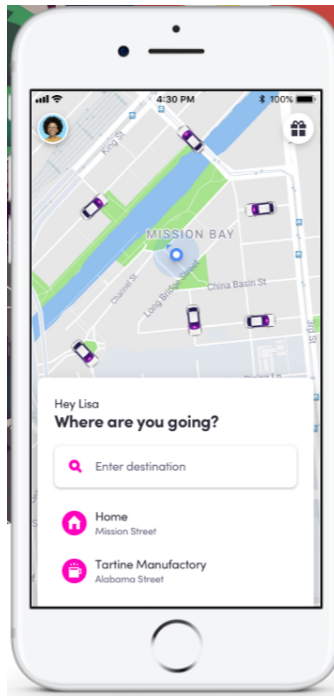
14.   As part of the Lyft Services, Lyft makes available a specialized vehicle navigation system to its drivers through the Lyft Apps. *See, e.g.,* https://blog.lyft.com/posts/announcing-lyft-navigation (describing Lyft's navigation system); https://help.lyft.com/hc/en-us/articles/115012926407-How-to-change-navigation-settings (same).

15.   Lyft infringes one or more claims of the '580 patent, including at least claim 1, through the Lyft Services integrated with the Lyft Apps (together, "the Lyft Driver System"), as discussed in the following paragraphs of this Complaint. Such paragraphs describe the Lyft Apps for iOS. Upon information and belief, the Lyft Apps for Android operate in a substantially similar manner.

16.   The Lyft Driver System is a system "for controlling vehicle movements, in areas containing a road network, and a plurality of vehicles that exhibit means for identification, means for road information and means for transmission of information between the vehicle and a traffic information center," as recited in claim 1.

17.   For example, the Lyft Services manage vehicle movements on the road for Lyft drivers that are actively logged-in through the Lyft Apps:

(https://www.lyft.com/rider).

18.   Each Lyft driver using the Lyft Apps must log-in to access the Lyft Services and begin receiving trip requests. Lyft drivers can log-in using a unique identifier (*e.g.*, phone number):
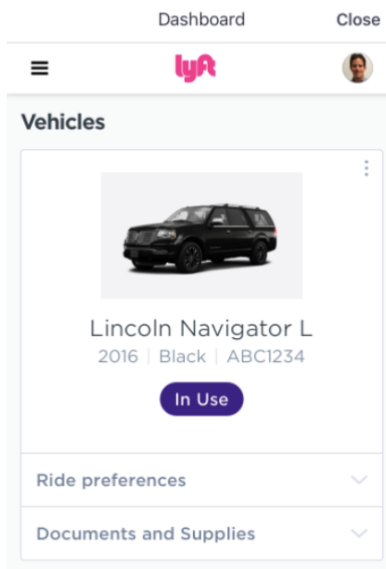
How to log into Lyft Driver

If you're already a driver: There are two ways to log into the Lyft Driver app.
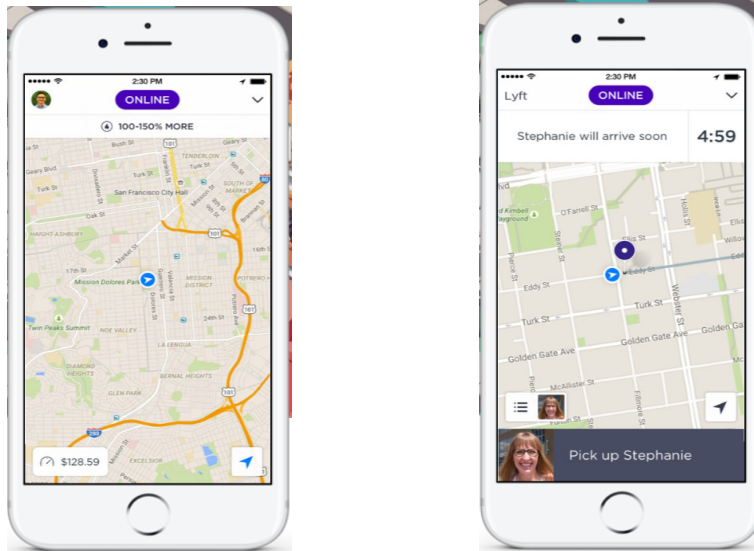
- **Manually.** If you're not logged in to the original Lyft app:
    1. Open Lyft Driver
    2. Tap 'Get Started'
    3. Enter your account's phone number to log in
- **Continue As.** If you're already logged in to the original Lyft app:
    1. Tap 'Get Started.'
    2. That's it!

See, e.g., https://help.lyft.com/hc/en-us/articles/115013079208-Lyft-Driver-app. Each Lyft driver must also select a specific vehicle, which has unique identifiers such as make, model, year, color, and license number, to associate with that driver/log-in:


See, e.g., https://help.lyft.com/hc/en-ca/articles/115012923147-Lyft-Lux-Lux-Black-and-Lux-Black-XL-rides-for-drivers.

19.   The Lyft Driver System provides road information, including road maps, navigation, and guidance, for Lyft drivers through the Lyft Apps:

See,   e.g.,   https://www.lyft.com/drive-with-lyft?lyft4_source=navbar;   *see   also,   e.g.,* https://blog.lyft.com/posts/announcing-lyft-navigation and https://help.lyft.com/hc/en-us/articles/ 115012926407-How-to-change-navigation-settings (describing Lyft's navigation system).

20.   The Lyft Driver System allows for the transmission of information between the Lyft Apps and the Lyft Services. Upon opening the Lyft Driver App or Lyft App (in driver mode), and based on the specific identification information from the Lyft driver (*e.g.*, vehicle information), a Lyft driver goes "online":

Showing Lyft driver is online
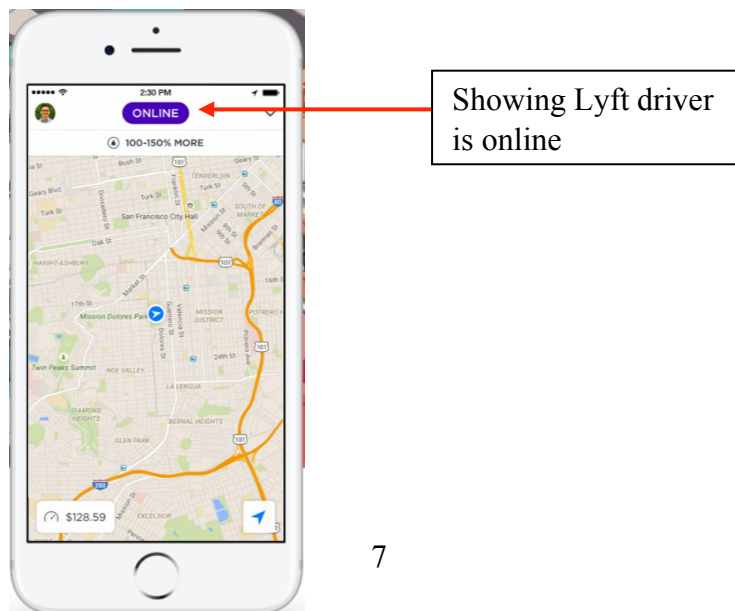
See, e.g., https://www.lyft.com/drive-with-lyft?lyft4_source=navbar; *see also, e.g.,* https://help.lyft.com/hc/en-us/articles/115013080028-How-to-give-a-Lyft-ride ("How to give a ride . . . At the top of the screen, slide the steering wheel icon to the right to go online. This lets you receive ride requests."). Once online, through the Lyft Driver App, a Lyft driver interacts with the Lyft Services to receive and accept trip requests, and to subsequently navigate to rider pick-up locations and rider destinations:

Once you're online, follow these steps:

1. When you get a ride request, you'll see a notification with the passenger's name, pickup ETA, and ride type. Tap anywhere to accept.
2. Tap the arrow next to the pickup location
3. Select 'Tap to arrive' when you're at the pickup location. Tap 'Confirm arrival' to send the rider a text (if we haven't already).
4. Tap 'Pick up (passenger's name)' when the rider gets in to start the ride
5. Tap 'Navigate' to begin navigation, then drive the rider to their destination
6. Tap 'Tap to drop off' when you arrive at the drop-off location, then tap 'Confirm drop off' to end the ride
7. Tap the star icon to rate the passenger manually, or let the timer finish to auto-rate the passenger 5 stars. That's it!

See, e.g., https://help.lyft.com/hc/en-us/articles/115013080028-How-to-give-a-Lyft-ride.

21.   The Lyft Driver System allows for information between the Lyft Apps and the Lyft Services to be transmitted over cellular communication protocols:

Location settings

To track your rides and update you while using the app, you must enable GPS/Location Services on your device and also have a mobile data connection.

Mobile data settings

The app must receive data through your mobile network to work. The app will become unresponsive if this setting is turned off. Here are some resources:

See,   e.g.,   https://help.lyft.com/hc/en-us/articles/115013080508-Phone-software-recommendations

-and-settings.

22.   The Lyft Driver System utilizes a road network that "is so arranged as to be entered into the system as a data network," as recited in claim 1.

23.   For example, the Lyft Apps display the road network as a digital road map:
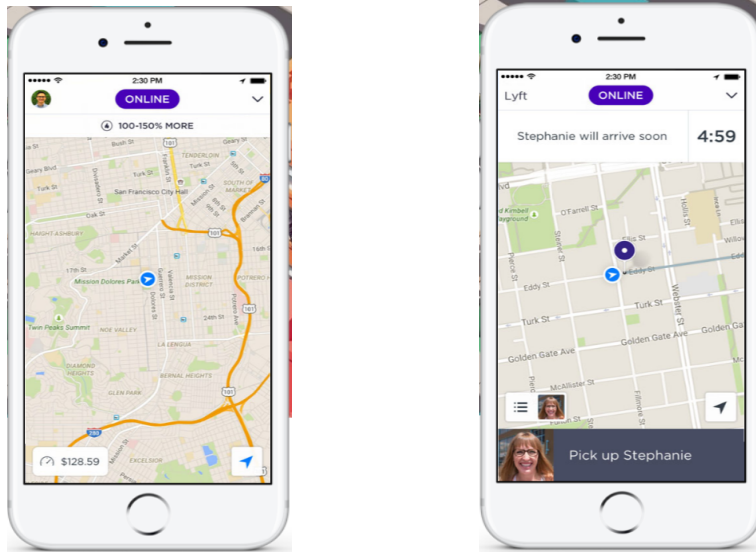
See, e.g., https://www.lyft.com/drive-with-lyft?lyft4_source=navbar; Lyft describes the

- **Variable Fares**. Variable fares consist of a base charge and incremental charges based on the duration and distance of your ride. For particularly short rides, minimum fares may apply. Please note that we use GPS data from your Driver's phone to calculate the distance traveled on your ride. We cannot guarantee the availability or accuracy of GPS data. If we lose signal we will calculate time and distance using available data from your ride.

transmission of trip information as "GPS data":

(https://www.lyft.com/terms).

24.   Through the Lyft Apps, "each vehicle that is intended to make use of the road network is logged in for travelling on the road network . . . each vehicle is identified with an identity at the time of logging in, in conjunction with which the identify is either dynamic or static," as recited in claim 1.

25.   For example, each Lyft driver using the Lyft Apps must log-in to access the Lyft Services and begin receiving trip requests. Lyft drivers can log-in using a unique identifier (*e.g.,* phone number):
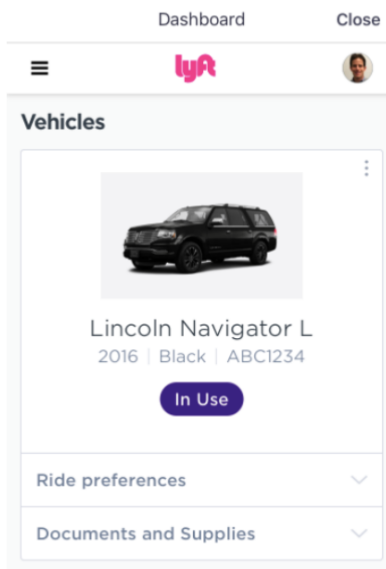
How to log into Lyft Driver

If you're already a driver: There are two ways to log into the Lyft Driver app.

- **Manually.** If you're not logged in to the original Lyft app:
    1. Open Lyft Driver
    2. Tap 'Get Started'
    3. Enter your account's phone number to log in
- **Continue As.** If you're already logged in to the original Lyft app:
    1. Tap 'Get Started.'
    2. That's it!

See, e.g., https://help.lyft.com/hc/en-us/articles/115013079208-Lyft-Driver-app. Through the Lyft Apps, each Lyft driver must also select a specific vehicle, which has unique identifiers such as make, model, year, color, and license number, to associate with that driver/log-in:

Dashboard   Close

≡   lyft   👤

Vehicles

Lincoln Navigator L
2016 | Black | ABC1234

In Use

Ride preferences   ˅

Documents and Supplies   ˅

See, e.g., https://help.lyft.com/hc/en-ca/articles/115012923147-Lyft-Lux-Lux-Black-and-Lux-Black-XL-rides-for-drivers.

26.   Through the Lyft Apps, "information relating to the intended destination is sent in from each vehicle to the traffic information center in conjunction with logging in or later in the course of a journey when there is a new desired destination," as recited in claim 1.

27.   For example, a Lyft driver that is logged into the Lyft Driver System receives and accepts trip requests through the Lyft Apps. A rider requesting a Lyft driver must select a desired vehicle/ride type (*e.g.*, Lyft, Shared, Lux, Lux Black, Lyft XL, Lux Black XL). *See, e.g.*, https://help.lyft.com/hc/en-us/articles/115012927427-Lyft-ride-modes-overview   (Lyft   ride modes overview). When a Lyft driver accepts a ride and picks up a rider, the Lyft Apps send information relating to the destination address and then receive navigation information from the Lyft Services:

Once you're online, follow these steps:

1. When you get a ride request, you'll see a notification with the passenger's name, pickup ETA, and ride type. Tap anywhere to accept.
2. Tap the arrow next to the pickup location
3. Select 'Tap to arrive' when you're at the pickup location. Tap 'Confirm arrival' to send the rider a text (if we haven't already).
4. Tap 'Pick up (passenger's name)' when the rider gets in to start the ride
5. Tap 'Navigate' to begin navigation, then drive the rider to their destination
6. Tap 'Tap to drop off' when you arrive at the drop-off location, then tap 'Confirm drop off' to end the ride
7. Tap the star icon to rate the passenger manually, or let the timer finish to auto-rate the passenger 5 stars. That's it!

See, e.g., https://help.lyft.com/hc/en-us/articles/115013080028-How-to-give-a-Lyft-ride. The Lyft Driver System allows for changes in destination during the course of a ride:

Changes to the address or multiple stops

Passengers can add a stop on the way to their final destination in standard Lyft, Lyft XL, or Lyft Lux rides. The app alerts you when a passenger adds a stop, which they can do before pickup or during a ride.

See, e.g., https://help.lyft.com/hc/en-us/articles/115012926147-How-to-navigate-a-ride.

28.   Through the Lyft Apps, "information about position and speed of . . . each vehicle is reported at regular intervals to the . . . traffic information center," as recited in claim 1.

29.   The Lyft Driver System tracks the position and speed of a vehicle at regular intervals. For example, the Lyft Driver System tracks vehicle information using "GPS," which regularly sends information about position and speed from the Lyft Apps to the Lyft Services:

Location Information. Lyft is all about connecting Drivers and Riders. To do this, we need to know where you are. When you open Lyft on your mobile device, we receive your location. We may also collect the precise location of your device when the app is running in the foreground or background. If you label certain locations, such as "home" and "work," we receive that information, too.

Your location information is necessary for things like matching Riders with nearby Drivers, determining drop off and pick up locations, and suggesting destinations based on previous trips. Also, if the need ever arises, our Trust & Safety team may use and share location information to help protect the safety of Lyft Users or a member of the public. In addition to the reasons described above, Drivers' location information and distance travelled is necessary for calculating charges and insurance for Lyft rides. If you give us permission through your device settings or Lyft app, we may collect your location while the app is off to identify promotions or service updates in your area.

Device Information. Lyft receives information from Users' devices, including IP address, web browser type, mobile operating system version, phone carrier and manufacturer, application installations, device identifiers, mobile advertising identifiers, push notification tokens, and, if you register with your Facebook account, your Facebook identifier. We collect mobile sensor data from Drivers' devices (such as speed, direction, height, acceleration or deceleration) to improve location accuracy and analyze usage patterns.

See, e.g., https://www.lyft.com/terms; *see also, e.g.*, https://help.lyft.com/hc/en-us/articles/ 115013081228-How-to-prevent-poor-location-tracking:

As a driver, you need turn-by-turn directions, and your passengers need to know where you are. The app regularly sends location info to our servers, which also lets us measure the distance and time you've driven and calculate ride costs and earnings.

To track rides accurately, we need the best location updates from your GPS while you're driving. Here's how to make that happen.

30.   The Lyft Driver System allows for "overall control of the traffic . . . on the basis of the information reported to the traffic information center," as recited in claim 1.

31.   For example, as described in Paragraphs 17-29, the Lyft Driver System monitors the locations and provides routes for Lyft drivers logged into the Lyft Driver System through the Lyft Apps. The Lyft Driver System monitors and controls the flow of Lyft drivers based on their proximity to a ride request and identified vehicle information:
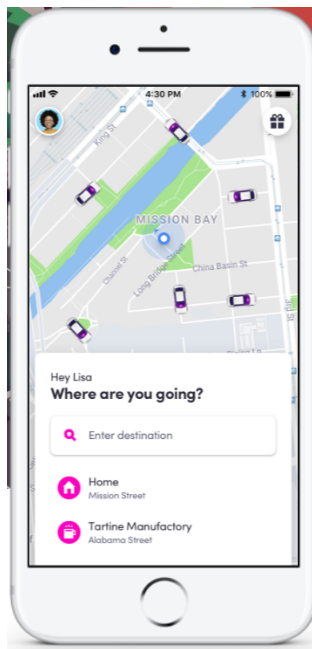
See, e.g., https://www.lyft.com/rider; *see also, e.g.*, https://www.lyft.com/terms ("Your location information is necessary for things like matching Riders with nearby Drivers, determining drop off and pick up locations, and suggesting destinations based on previous trips."); https://help.lyft.com/hc/en-us/articles/115012926847-How-drivers-and-passengers-are-paired ("To keep drivers as busy as possible while also keeping ETAs low for passengers, we generally match passengers with drivers who will arrive soonest . . . We also take driver and passenger preferences into account . . ."; https://help.lyft.com/hc/en-us/articles/115012927427-Lyft-ride-modes-overview (Lyft ride modes overview). The Lyft Driver System uses information from the Lyft Apps and current road conditions to "determine the best routes." *See, e.g.*, https://help.lyft.com/hc/en-us/articles/115012926407-How-to-change-navigation-settings ("We recommend using Lyft navigation, built with Google Maps, to determine the best routes during rides.").

32.   The Lyft Driver System also allows Lyft drivers to participate in "Shared" riding, which allows a Lyft driver to provide on-demand transportation services to multiple riders based

on the proximity of the Lyft driver to a series of in-route ride requests. *See, e.g.,*

https://help.lyft.com/hc/en-us/articles/115013078848-About-Shared-rides   (describing   Shared

rides). Lyft explains that the order in which riders are picked up or dropped off is "all based on

the most efficient route chosen by our system." *Id*.

33.   The Lyft Driver System allows for "information about a proposed route for each

vehicle [to be] transmitted from the traffic information center to . . . each vehicle," as recited in

claim 1.

34.   For example, as explained in Paragraph 27, when a Lyft driver accepts a ride or

picks up a rider, the Lyft Apps send information relating to the pick-up location or rider

destination and receive navigation information from the Lyft Services.

35.   The Lyft Driver System "exhibits an exact image of the actual traffic situation and

guides the traffic dynamically, for control of the traffic situation centrally," as recited in claim 1.

36.   For example, the Lyft Driver System allows for the Lyft Apps to display an exact

image of the actual mapped route:
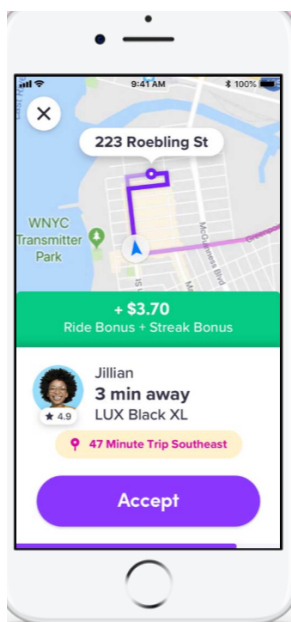
See, e.g., https://www.lyft.com/driver/driven-by-you. By tracking information provided by the
Lyft Apps, the Lyft Services can monitor and control the flow of Lyft drivers who are logged-on
to the Lyft Apps:
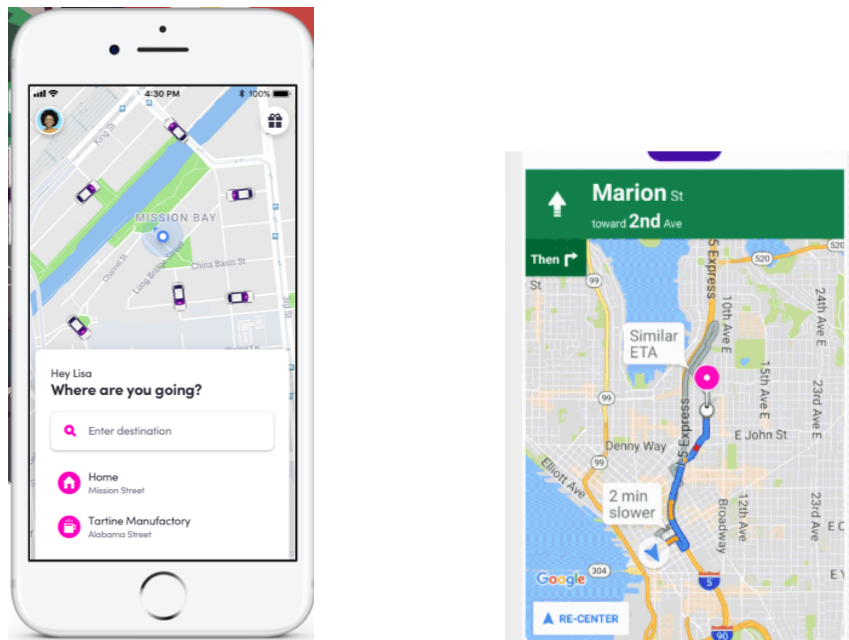
See, e.g., https://www.lyft.com/rider; https://blog.lyft.com/posts/announcing-lyft-navigation. In
addition, as explained in Paragraphs 31 and 32, the Lyft Services can control and guide Lyft
drivers dynamically based on information such as, for example, real-time traffic conditions,
destination, the location, position and speed of Lyft drivers, Lyft driver identification, vehicle
identification, and ride type (*e.g.*, "Shared" rides).

Direct Infringement of Claim 1 of the '580 Patent

37.   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
'580 patent, including at least claim 1 by using and making, in this judicial district and/or
elsewhere in the United States, the Lyft Driver System. For example, Lyft controls the Lyft
Driver System as a whole by running, operating, and/or supporting its Lyft Services or otherwise

making its Lyft Services available to drivers through the Lyft Apps, and obtain benefits from such use at least by collecting Lyft transportation payments. Lyft makes the Lyft Driver System by hosting and/or launching its Lyft Services or otherwise making its Lyft Services available to existing Lyft drivers through the Lyft Apps, which is configured to transmit information related to Lyft's on-demand transportation services between the Lyft Services and the Lyft Apps.

Inducement of Claim 1 of the '580 Patent

38.   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 '580 patent, including at least claim 1 by instructing and otherwise encouraging infringement and by making the Lyft Apps available to Lyft drivers to download and install onto their devices in order to use the Lyft Driver System. For example, Lyft requires drivers installing and/or using the Lyft Apps to consent to Lyft's collection of location-based services. *See, e.g.*, https://www.lyft.com/terms. Lyft also provides many instructional guides and other promotional materials demonstrating how the Lyft Apps communicate with the Lyft Driver System to facilitate transportation services in a way that infringes the '580 patent. *See generally*, www.lyft.com.

39.   A Lyft 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 '580 patent, including at least claim 1, by using the Lyft Driver System. For example, a Lyft driver utilizes the Lyft Driver System as a whole by using the Lyft Apps to fulfill ride requests and otherwise communicate with the Lyft Services, and obtains benefits from such use at least by virtue of customer payment for the Lyft ride.

Willful Infringement of the '580 Patent

40.   Lyft's infringement has been willful or otherwise egregious. Upon information and belief, Lyft is a member of Unified Patents Inc. ("Unified Patents"). Unified Patents is described as a "membership organization that seeks to . . . deter . . . patent assertions in defined technology sectors (Zones) through" activities such as "administrative patent review (PTAB)." https://www.unifiedpatents.com/faq. According to Unified Patents, members pay annual fees to subscribe to Unified Patents' services. *Id*.

41.   On January 23, 2017, Unified Patents filed a Petition for Inter Partes Review of U.S. Patent No. 6,754,580 with the United States Patent and Trademark Office. Unified Patents states only that its "members receive no *prior* notice that Unified is preparing or filing any post-grant patent challenge." *Id*. (emphasis added). Accordingly, upon information and belief, Lyft became aware of the '580 patent at least as early January 23, 2017, the date Unified Patents filed its petition.

42.   On June 15, 2017, the Patent Trial and Appeal Board ("PTAB") issued a decision denying institution, finding that Unified Patents failed to show "there is a reasonable likelihood" that the challenged claims of the '580 patent are invalid. On information and belief, Lyft had knowledge that Unified Patents' petition was denied. Despite its knowledge of the '580 patent and the PTAB's denial of institution, Lyft continued to make and use the Lyft Driver System in a manner that infringed the '580 patent. Lyft knew or should have known that its actions constituted an unjustifiably high risk of infringement of the '580 Patent.

<div align="center">DAMAGES</div>

43.   Blackbird Technologies has sustained damages as a direct and proximate result of Lyft's infringement of the '580 patent.

44.   As a consequence of Lyft's past infringement of the '580 patent, Blackbird Technologies is entitled to the recovery of past damages in the form of, at a minimum, a reasonable royalty.

45.   As a consequence of Lyft's continued and future infringement of the '580 patent, Blackbird Technologies is entitled to royalties for Lyft's infringement of the '580 patent on a going-forward basis.

46.   As a consequence of Lyft's willful or otherwise egregious infringement of the '580 patent, Blackbird Technologies is entitled to treble damages pursuant to 35 U.S.C. § 284.

<div align="center">PRAYER FOR RELIEF</div>

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

A.   Adjudging that Defendant has infringed the '580 patent, in violation of 35 U.S.C. § 271(a);

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 and, if necessary to adequately compensate Blackbird Technologies for Defendant's infringement, an accounting of all infringing sales including, but not limited to, those sales not presented at trial;

C.   Awarding Blackbird Technologies all damages, including treble damages, based on any infringement found to be willful or otherwise egregious, pursuant to 35 U.S.C. § 284;

D.   Ordering Defendant to continue to pay royalties to Blackbird Technologies for infringement of the '580 patent on a going-forward basis;

E.   Awarding that this case be exceptional under 35 U.S.C. § 285 and awarding costs, expenses, 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.

<u>DEMAND FOR JURY TRIAL</u>

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

Dated: March 25, 2019   STAMOULIS & WEINBLATT LLC

OF COUNSEL   */s/Stamatios Stamoulis*
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