

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

MELLACONIC IP LLC,

Plaintiff,

v.

LYFT, INC.,

Defendant.

Civil Action No. 6:20-cv-786-ADA

Jury Trial Requested

PLAINTIFF’S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Mellaconic IP LLC (“Mellaconic” or “Plaintiff”) files this First Amended Complaint against Defendant Lyft, Inc. (“Lyft” or “Defendant”) for infringement of U.S. Patent No. 9,986,435 (the “’435 patent”). The ’435 patent is referred to herein as the “patent-in-suit.”

THE PARTIES

1. Plaintiff is a Texas limited liability company having an address at 6009 W Parker Road, Ste 1027, Plano, Texas 75093.

2. Defendant Lyft, Inc. is a corporation organized under the laws of Delaware with its principal place of business located at 185 Berry St., Suite 5000, San Francisco, CA 94107. Defendant is registered to conduct business in Texas.

JURISDICTION AND VENUE

3. This is a civil action for patent infringement under the patent laws of the United States, namely 35 U.S.C. §§ 271, 281, and 284-285, among others.

4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has general personal jurisdiction over Defendant because Defendant is engaged in substantial and not isolated activity within this judicial district. This Court has specific jurisdiction over Defendant because Defendant has committed acts of infringement giving rise to this action and has established more than minimum contacts within this judicial district, such that the exercise of jurisdiction over Defendant in this Court would not offend traditional notions of fair play and substantial justice. Defendant, directly and through subsidiaries or intermediaries, has committed and continues to commit acts of infringement of Mellaconic's rights in the patent-in-suit in this district by, among other things, making, using, offering to sell, selling, and importing products and/or services that infringe the patent-in-suit. Defendant has (1) operated the Internet website, <https://www.lyft.com/>, and provided mobile applications (the "Lyft app" and "Lyft Driver app"), which are available to and accessed by ridesharing users, customers, and potential customers of the Defendant, both riders and drivers, within this judicial district; (2) operated within the judicial district, with ridesharing offered to users, drivers, customers, and potential customers of Defendant in locations including Austin, El Paso, San Antonio, and Waco; (3) actively advertised to employ (and in fact hired) residents within the District as drivers; (4) transacted business within this judicial district and elsewhere in Texas; (5) infringed, actively infringed and/or induced infringement of Mellaconic's patent rights in this judicial district and elsewhere in Texas; (6) established regular and systematic business contacts within the State of Texas; and (7) continued to conduct such business in Texas through the continued operation within the district. Accordingly, this Court's jurisdiction over the Defendant comports with the constitutional standards of fair play and substantial justice and arises directly from the Defendant's purposeful minimum contacts with the State of Texas.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b). Defendant is registered to do business in Texas and has transacted business in this district. Defendant has committed acts of infringement of Mellaconic's patent rights in this district by, among other things, making, using, and/or offering for sale or use services products and/or services that infringe the patent-in-suit. Defendant has regular and established places of business in this district, including locations at 6375 US-290, Austin, TX 78723 and 8610 Broadway St., Suite 260, San Antonio, TX 78217.

THE PATENT-IN-SUIT

7. The '435 patent is titled "Autonomous, Non-Interactive, Context-Based Services for Cellular Phone." A copy of the '435 patent is attached hereto as Exhibit A. The inventions claimed by the '435 patent generally relate to new and novel systems and methods for providing context-based services or applications on a cellular telephone.

8. The '435 patent lawfully issued on May 29, 2018, and stems from U.S. Patent Application No. 14/885,515 filed on October 16, 2015. U.S. Patent Application No. 14/885,515 is a continuation of U.S. Patent Application 14/293,376, filed on June 2, 2014, now U.S. Patent No. 9,177,311, which is a continuation of U.S. Patent Application No. 13/941,853, filed on July 15, 2013, now U.S. Patent No. 8,744,429, which is a continuation of U.S. Patent Application No. 12/415,027, filed on March 31, 2009, now U.S. Patent No. 8,532,642.

9. The named inventors on the patent-in-suit are Miodrag Potkonjak and Nathan Beckmann.

10. Each claim of the patent-in-suit is presumed valid and directed to patent eligible subject matter under 35 U.S.C. § 101.

COUNT I
(Infringement of U.S. Patent No. 9,986,435)

11. Plaintiff incorporates paragraphs 1 through 10 herein by reference.

12. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*

13. Plaintiff is the owner of the '435 patent with all substantial rights to the '435 patent including the exclusive right to enforce, sue, and recover damages for past and future infringement.

14. The '435 patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

15. Defendant has, and continues to, infringe one or more claims of the '435 patent in this judicial district and elsewhere in Texas and the United States.

DIRECT INFRINGEMENT (35 U.S.C. §271(a))

16. Defendant has directly infringed, and continues to directly infringe, either by itself or via an agent, claims of the '435 patent (including at least claim 21) by, among other things, making, supporting, and/or operating the systems that support Lyft apps (the "Accused Systems").

17. For example, as described in paragraphs 18-23 (below), the Accused Systems perform the method of claim 21 at least when Lyft notifies a Lyft driver of a ride request.

18. The Accused Systems receive, by a first device located at a first location (e.g., a Lyft server), one or more messages that indicate location information of a second device located at a second location (e.g., a mobile device with Lyft app). As evidenced below, a Lyft server receives location information from a device enabled with the Lyft app. Upon information and belief, the Accused Systems use the location information to identify a ride/vehicle.

Rideshare Passenger Location

In order to provide you the best ride experience, Lyft uses your device's location services while you're using Lyft. With location information, Lyft can improve experiences around pickups, ride navigation, customer service, and more. We respect your privacy and provide you options about sharing your location with Lyft.

If you have enabled location collection on your device, Lyft will collect your real-time location when you have the Lyft app open and visible on your screen as well as from the time you request a ride to the end of a ride, even if your app is not visible on your screen. When your app is running but not visible on your screen (in the "background"), you may see an icon or notice at the top of your screen indicating that Lyft is using this "background" location data, depending on your device and its settings.

<https://help.lyft.com/hc/en-us/articles/360046897454>

App Store Preview

Count on Lyft to take you where you need to go with safety first. Got an appointment? Need to pick up some groceries? We'll match you with a driver, help you find the quickest bus route, or show you the nearest scooter — you'll be on your way in minutes. If it gets you there, it's on the app.

USING LYFT IS EASY

Choose your destination, find a ride in seconds, and pay directly in the app. It's that simple.

YOUR WELL-BEING COMES FIRST

We want to make sure every ride is as comfortable as it can be so that you can sit back and relax. With guidance from the CDC and local health officials, we've created health safety requirements to help protect everyone in the car. We'll continue to monitor the evolving coronavirus situation and make updates to ensure everyone knows how to use Lyft safely.

<https://apps.apple.com/us/app/lyft/id529379082>

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. When you drop off a passenger, it's likely that your next request will be close by.

We also take driver and passenger preferences in account, like if a driver is currently in destination mode or if either person has ever rated the other three stars or below.

<https://help.lyft.com/hc/en-us/articles/115012926847-How-drivers-and-passengers-are-paired>

Location Information. Great rides start with an easy and accurate pickup. The Lyft Platform collects location information (including GPS and WiFi data) differently depending on your Lyft app settings and device permissions as well as whether you are using the platform as a Rider or Driver:

- Riders: We collect your device's precise location when you open and use the Lyft app, including while the app is running in the background from the time you request a ride until it ends. Lyft also tracks the precise location of scooters and e-bikes at all times.
- Drivers: We collect your device's precise location when you open and use the app, including while the app is running in the background when it is in driver mode. We also collect precise location for a limited time after you exit driver mode in order to detect ride incidents, and continue collecting it until a reported or detected incident is no longer active.

<https://www.lyft.com/privacy>

19. The Accused Systems also receive, at a first device (e.g., a Lyft server), one or more messages that include a request for a first action (e.g., notifying a Lyft driver's mobile device of a ride request) to be performed by the first device (e.g., Lyft server). As evidenced below, a device enabled with the Lyft app sends a request to a Lyft server to alert a Lyft driver (via the Lyft Driver app on the driver's device) that a ride has been requested.

The Lyft app

To request a Lyft ride, download the Lyft app and **create an account**. Then:

1. In your app, tap 'Search destination' and enter your destination
2. Tap the correct address from the list provided
3. Choose your ride type. You can view additional ride types, such as Shared, Lux, or Wait & Save. Learn more about ride modes to fit your travel needs with **Lyft ride modes overview**.
4. Tap 'Select Lyft'
5. Confirm or change your pickup spot and tap 'Confirm and request'

<https://help.lyft.com/hc/en-us/articles/115013079988-How-to-request-a-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. To see what different requests look like in the app, skip to **How rides appear in the app**.

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!

<https://help.lyft.com/hc/en-us/articles/115013080028-How-to-give-a-Lyft-ride>

20. The request for a first action (e.g., notifying a Lyft driver's mobile device of a ride request) is related to the location information of the second device (e.g., when a mobile device enabled with Lyft app requests a ride using the device's current location). As evidenced below, a device enabled with the Lyft app can request a ride using the device's current location.

The Lyft app

To request a Lyft ride, download the Lyft app and [create an account](#). Then:

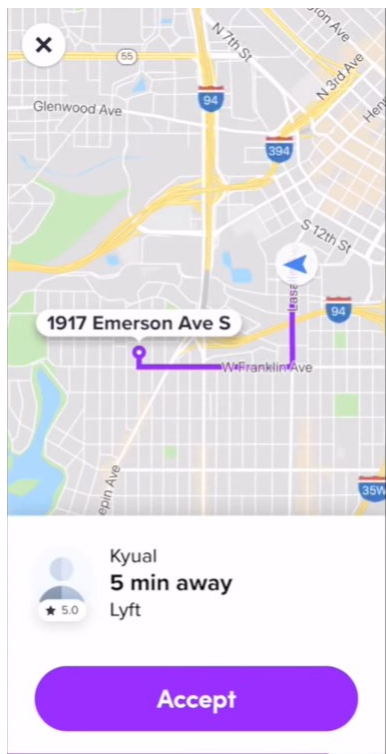
1. In your app, tap 'Search destination' and enter your destination
2. Tap the correct address from the list provided
3. Choose your ride type. You can view additional ride types, such as Shared, Lux, or Wait & Save. Learn more about ride modes to fit your travel needs with [Lyft ride modes overview](#).
4. Tap 'Select Lyft'
5. Confirm or change your pickup spot and tap 'Confirm and request'

The pickup location will automatically set to your current GPS location. To change the pickup location:

1. Tap 'Current location' at the top of the screen
2. Enter an address or drag the location pin to the right spot
3. Tap 'Set pickup.' That's it!

<https://help.lyft.com/hc/en-us/articles/115013079988-How-to-request-a-ride>

And, as evidenced below, a driver notification includes rider location information.



<https://www.youtube.com/watch?v=a8n2--HlzDU>

21. The one or more messages (e.g., a ride request message from a mobile device enabled with Lyft app, messages with location updates from a mobile device enabled with Lyft app) are received from the second device (e.g., mobile device enabled with Lyft app).

22. The location information of a second device (e.g., location of mobile device enabled with Lyft app) acts as authentication to allow the first action (e.g., notifying a Lyft driver's mobile device of a ride request) to be performed by the first device (e.g., Lyft server). As evidenced below, a device located outside Lyft's coverage area cannot request a ride using the device's location.

Lyft's coverage areas

See our [Cities page](#) for a full list and details of the cities we operate in.

Skip to:

- [Can requests be made outside the coverage area?](#)
- [Can rides go outside the coverage area?](#)
- [Can I take rides in a city I didn't sign up in?](#)
- [How often does Lyft expand coverage areas?](#)

Can requests be made outside the coverage area?

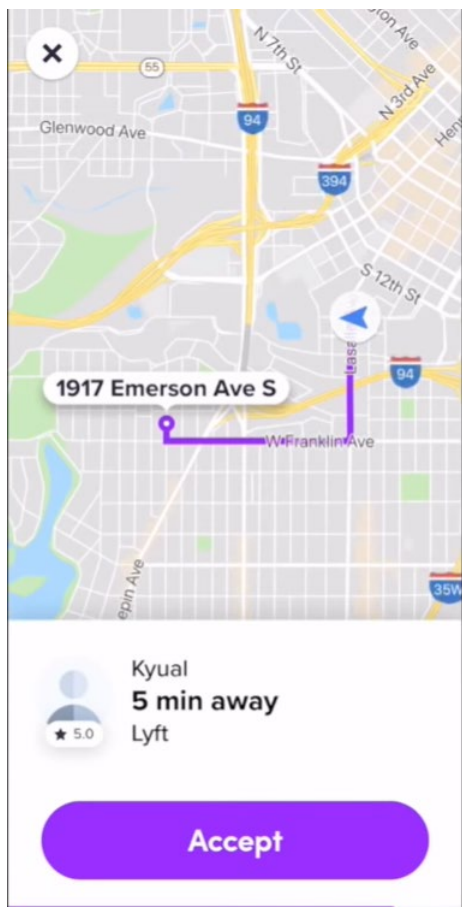
Lyft requests can only be made from inside your city's coverage area. Most of our coverage areas include the city itself and surrounding areas.

<https://help.lyft.com/hc/en-us/articles/115013081248-Lyft-s-coverage-areas>

In this manner, the location information of the second device (e.g., location of mobile device enabled with Lyft app) acts as authentication to allow the first action (e.g., notifying a Lyft driver's mobile device of a ride request) to be performed by the first device (e.g., Lyft server). The location information of the second device (e.g., location of mobile device with Lyft app) acts as authentication to allow the first action to be performed (e.g., notifying a Lyft driver's mobile device of a ride request) because whether the first action is permitted is based on confirmation that the rider device's location is within a coverage area.

23. The Accused Systems perform, based at least on the received one or more messages (e.g., a ride request message from a mobile device enabled with Lyft app, messages with location updates from a mobile device enabled with Lyft app), by the first device (e.g., Lyft server), the authenticated first action (e.g., notifying a Lyft driver's mobile device of a ride request) that is related to controlling a third device (e.g., causing a Lyft driver's mobile device enabled with the

Lyft Driver app to display a ride request interface). As evidenced below, when a nearby device requests a ride using the Lyft app, a Lyft driver's mobile device receives a notification that causes it to display a ride request via the Lyft Driver app.



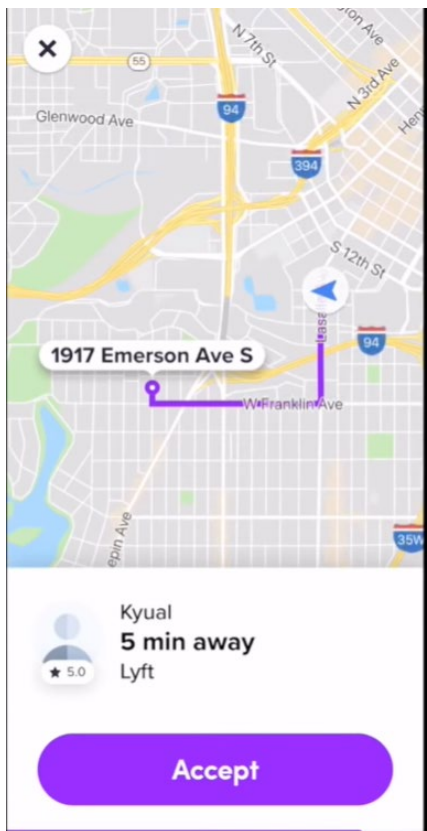
<https://www.youtube.com/watch?v=a8n2--HlzDU>

INDIRECT INFRINGEMENT (INDUCEMENT - 35 U.S.C. §271(b))

24. Defendant has, and continues to, indirectly infringe one or more claims of the '435 patent by inducing direct infringement by end users of Lyft apps (the "Accused Products").

25. For example, Defendant has induced direct infringement of the '435 patent by users of the Lyft Driver app, including Lyft drivers in this judicial district. As described in paragraphs 26-28 (below), a Lyft driver's mobile device with the Lyft Driver app performs the method of claim 8 at least when a Lyft driver is alerted of a ride request via the Lyft Driver app.

26. A Lyft driver's mobile device with the Lyft Driver app (a first device located at a first geographical location) receives geographical location information of a second device located at a second geographical location (e.g., a mobile device with the Lyft app that has requested a ride) and a request for a first action to be performed (e.g., a message indicating a driver should be alerted of a ride request). As discussed above (see paragraph 20), a device enabled with the Lyft app can request a ride using the device's current location. As evidenced below, when a Lyft rider requests a ride using their device's location, a device running the Lyft Driver app receives one or more messages that include location information for the rider's mobile device and information indicating a ride request interface should be presented.

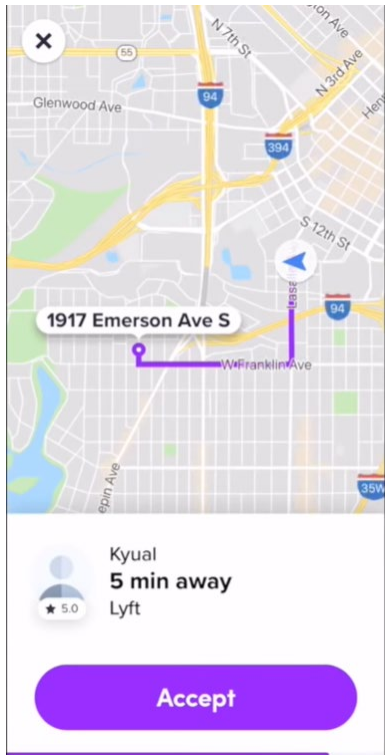


<https://www.youtube.com/watch?v=a8n2--HlzDU>

27. The geographical location information of the second device (e.g., mobile device with Lyft app) acts as authentication to allow the first action to be performed. As discussed above

(see paragraph 22), a device located outside Lyft's coverage area cannot request a ride using the device's location. In this manner, the geographical location information of the second device (e.g., mobile device with Lyft app) acts as authentication to allow the first action (e.g., alerting a Lyft driver's mobile device of a ride request) to be performed. The location information of the second device (e.g., location of mobile device with Lyft app) acts as authentication to allow the first action (e.g., alerting a Lyft driver of a ride request) because whether the first action is permitted is based on confirmation that the rider device's location is within a coverage area.

28. A Lyft driver's mobile device with the Lyft Driver app performs, based on the request (e.g., ride request message), the authenticated first action (e.g., alerting the driver of a ride request) by performing an autonomous download of data (e.g., map/navigation data). As discussed above, the first action is authenticated in accordance with the geographical location information of the second device because whether the first action is permitted is based on confirmation that the rider device's location is within a coverage area. As evidenced below, the Lyft Driver app alerts a driver of a ride request by automatically downloading map and navigation data that is presented to the driver via a ride request interface.



<https://www.youtube.com/watch?v=a8n2--HlzDU>

29. Defendant has had knowledge of the '435 patent and its infringements at least based on service of Plaintiff's Original Complaint (ECF 1) or this Amended Complaint.

30. On information and belief, despite having knowledge of the '435 patent and its infringement, Defendant has specifically intended for persons who acquire and use the Accused Products to do so in a way that infringes the '435 patent, including at least claim 8 (as described above), and Defendant knew or should have known that its actions were inducing infringement.

31. Despite having knowledge of the '435 patent and its infringement, Defendant has instructed and encouraged, and continues to instruct and encourage, users to use the Accused Products in a manner that results in infringement of the '435 patent. For example, Defendant has provided, and continues to provide, the Accused Products to end users with code that when executed by mobile devices running the Accused Products causes the mobile devices to infringe (e.g., as described above). Defendant has also provided, and continues to provide, online support

materials that encourage end users (e.g., Lyft drivers) to use the Accused Products in an infringing manner. *See, e.g.,* <https://help.lyft.com/hc/en-us/categories/115002009967-Driving-with-Lyft#115003494828>.

32. Defendant is liable for its infringements of the '435 patent pursuant to 35 U.S.C. § 271.

33. Plaintiff has been damaged as a result of Defendant's infringing conduct described in this Count. Defendant is liable to Plaintiff in an amount that adequately compensates Plaintiff for Defendant's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

34. Plaintiff has satisfied the requirements of 35 U.S.C. § 287 and is entitled to recover damages for infringement occurring prior to the filing of this lawsuit.

JURY DEMAND

Plaintiff requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

Plaintiff asks that the Court find in its favor and against Defendant and that the Court grant Plaintiff the following relief:

- a. Judgment that one or more claims of the '435 patent have been infringed, either literally and/or under the doctrine of equivalents, by Defendant;
- b. Judgment that Defendant account for and pay to Plaintiff all damages and costs incurred by Plaintiff because of Defendant's infringing activities and other conduct complained of herein, including an accounting for any sales or damages not presented at trial;
- c. Judgment that Defendant account for and pay to Plaintiff a reasonable, ongoing, post judgment royalty because of Defendant's infringing activities, including continuing infringing activities, and other conduct complained of herein;
- d. That Plaintiff be granted pre-judgment and post judgment interest on the damages

caused by Defendant's infringing activities and other conduct complained of herein;

- e. Find this case exceptional under the provisions of 35 U.S.C. § 285 and award enhanced damages;
- f. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: November 16, 2020

Respectfully submitted,

/s/ Ryan Griffin

Ryan Griffin

Texas Bar No. 24053687

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Attorneys for Plaintiff

MELLACONIC IP LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on November 16, 2020, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(b).

/s/ Ryan Griffin

Ryan Griffin