

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SURGETECH, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 22-882 (GBW)
	)	
UBER TECHNOLOGIES, INC. d/b/a UBER,	)	
	)	
Defendant.	)	

**PLAINTIFF SURGETECH LLC’S AND DEFENDANT UBER TECHNOLOGIES, INC.’S
JOINT CLAIM CONSTRUCTION CHART**

Pursuant to paragraph 8 of the Scheduling Order and the Court’s February 17, 2023 Order on the parties’ Stipulation to Extend Time (Dkt. 55), SurgeTech, LLC (“SurgeTech” or “Plaintiff”) and Defendant Uber Technologies, Inc (“Uber” or “Defendant”) hereby provide the following terms, phrases and clauses of U.S. Patent Nos. 11,334,598 (“the ’598 patent”) (Exhibit 1), 11,360,999 (“the ’999 patent”) (Exhibit 2), and 11,475,047 (“the ’047 patent”) (Exhibit 3) (collectively, the “patents-in-suit”) that are in dispute, each party’s proposed construction, and each party’s citations to the intrinsic evidence.¹

¹ Because the ’598 patent and ’047 patent are continuations of the ’999 patent, for terms that appear in multiple patents, the parties have agreed to cite to the ’598 patent’s specification with the understanding that such citations will include citations to the other patents-in-suit. For all terms, the parties intend to rely on the language of the claims in which the terms appear. The parties’ citations to Figures are intended to include the corresponding discussion in the specification, and vice versa. Each party also reserves the right to rely on those portions of the intrinsic evidence cited by the other party.

I. THE PARTIES' POSITIONS WITH RESPECT TO NON-"MEANS FOR" LIMITATIONS

Claim Term	SurgeTech's Position	Uber's Position
"inventory" ('598 patent, claims 1-2, 4-6, 8-10, 12-14, 16-19, 21-24; '999 patent, claims 1-5, 7-10; '047 patent, claims 1-2, 4-5, 7-8, 10-11)	"one or more items, whether tangible or intangible, capable of being transferred or distributed from one party, entity, apparatus, or consumption source to another, and not limited to items that are sold" <u>Citations to intrinsic evidence:</u> All claims of the patents-in-suit. '598 patent at Abstract, 1:30-32, 1:36-44, 3:63-66, 4:11-16, 4:50-55, 6:1-3, 29:52-54, 29:60-65, 33:5-9, 39:1-11. File History of '999 patent, July 9, 2020 Listing of Claims (Ex. 4). File History of '999 patent, September 1, 2020 Preliminary Amendment (Ex. 5). File History of U.S. Pat. No. 10,740,354 (the "'354 patent"), October 3, 2018 Listing of Claims (Ex. 6). File History of '354 patent, November 14, 2018 Preliminary Amendment (Ex. 7). File History of '354 patent, March 18, 2020 Amendment and Response to Non-Final Office Action (Ex. 8) at 10-11. U.S. Pat. Pub. No. 2005/0086086 (Ex. 22) at ¶5.	"any item, whether tangible or intangible, that is capable of being transferred or distributed from one party, entity, apparatus, or consumption source to another and in respect of which it may be required to control and monitor quantity, rate or consumption, and other parameters" <u>Citations to intrinsic evidence:</u> '598 patent at Abstract, 1:30-46, 1:56-61, 2:1-12, 2:37-47, 2:49-54, 2:58-66, 3:3-14, 3:27-30, 3:57-4:6, 4:10-15, 4:29-44, 4:50-67, 5:1-11, 5:25-35. 552-59, 6:16-31, 6:65-7:12, Tables 1-12, 29:26-35, 29:63-65, 39:1-5, cls. 1, 2, 4, 5, 9, 10, 12, 13, 17, 18, 21, 23, Figs. 1, 2, 3, 4, 5. '999 patent at cls. 1, 4, 5, 6, 7, 8, 9, 10. '047 patent at cls. 1, 2, 4, 5, 7, 8, 10, 11. Australian Provisional Patent Application 2006902685 (Exhibit 25) at 2, 3.

“distribution channel[s]” (’598 patent, claims 1, 3, 6, 8-11, 14-19, 21-24; ’999 patent, claims 1, 2, 5-10; ’047 patent, claims 1, 4, 7, 10)	“portals, outlets, channels and other distribution agents that are configured for the distribution of inventory to consumers or sources of consumption” <u>Citations to intrinsic evidence:</u> All claims of the patents-in-suit. ’598 patent at Abstract, 1:30-35, 1:36-46, 1:50-2:12, 2:13-47, 2:48-3:13, 4:10-28, 4:29-62, 5:44-51, 5:52-67, 6:1-8, 7:39-44, 30:35-42, 32:1-8, 35:42-52, 35:53-61, 39:1-11, 39:22-24. File History of ’999 patent, July 9, 2020 Listing of Claims (Ex. 4). File History of ’999 patent, September 1, 2020 Preliminary Amendment (Ex. 5). File History of ’354 patent, October 3, 2018 Listing of Claims (Ex. 6). File History of ’354 patent, November 14, 2018 Preliminary Amendment (Ex. 7). Prosecution History of AU 2007/252290, June 20, 2018 Statement of Proposed Amendments (Ex. 10). Int. Pub. No. WO 03/048893 (Ex. 24) at 2:25-33, 3:1-4:21. Int. Pub. No. WO 01/84278 (Ex. 11) at 4:1-15, 6:23-7:2, 13:12-30. Int. Pub. No. WO 2005/001615 (Ex. 12) at 2:1-3, 6:9-25	“reseller that distributes inventory to consumers” <u>Citations to intrinsic evidence:</u> ’598 patent at Abstract, 1:6-15, 1:30-46, 3:31-33, 3:57-62, 3:66-4:6, 4:7-9, 4:24-28, 4:29-32, 4:38-44, 5:13-31, 5:44-48, 5:52-53, 8:30-37, 9:10-14, 9:33-41, 9:47-58, 14:7-11, Tables 1-12, 29:22-26, 30:42-45, 32:15-18, 39:22-24, Figs. 1, 2, 3, 4, 5. Australian Provisional Patent Application 2006902685 (Exhibit 25) at 2, 3, 9, 10, 14, 15
--	---	---

	U.S. Pat. Pub. No. 2003/0033205 (Ex. 13) at ¶¶2, 44, 208. U.S. Pat. Pub. No. 2003/0139949 (Ex. 14) at Abstract. U.S. Pat. Pub. No. 2003/0144867 (Ex. 15) at ¶34.	
“performance rating” (’598 patent; claims 1, 8, 9, 16, 17, 21, 23; ’999 patent, claims 1, 9, 10)	“indicator of performance” <u>Citations to intrinsic evidence:</u> All claims of the patents-in-suit. ’598 patent at Abstract, 1:57-62, 2:63-3:2, 4:29-37, 4:55-67, 5:1-6, 5:12-31, 5:51-67, 6:16-22, 6:65-7:5, 7:55-58, 10:23-28, 30:58-67, 38:4-14, 39:50-55. UK App. No. 9611770 (Ex. 16) at 2:10-18. JP Pub. No. 2001350826 (Ex. 17) at Abstract. Int. Pub. No. WO 03/048893 (Ex. 24) at Abstract, 1:15-26, 2:3-11, 2:25-4:21. Int. Pub. No. WO 01/82135 (Ex. 18) at 6:1-6, 16:16-27. Int. Pub. No. WO 2005/001615 (Ex. 12) at 10:28-12:9. Int. Pub. No. WO 2005/010675 (Ex. 19) at 3, 9, 10, 11, 16-21.	“indicator for how well inventory items are being sold/have been sold through a particular distribution channel” <u>Citations to intrinsic evidence:</u> ’598 patent at Abstract, 1:62-2:1, 2:28-37, 2:63-3:2, 4:29-37, 4:63-67, 5:1-31, 6:60-7:1, 9:26-27, 9:34-44, 11:21-40, 14:35, Tables 1-12, 30:58-31:47, Figs. 2, 3, 4, 5, cls. 1, 9, 17, 21, 23. ’999 patent at cls. 1, 7, 8, 9, 10. ’047 patent at cls. 1, 4, 7, 10. Australian Provisional Patent Application 2006902685 (Exhibit 25) at 3.

	U.S. Pat. No. 7,734,495 (Ex. 20) at 7:7-15, 7:21-29, 17:29-38. U.S. Pat. No. 8,355,944 (Ex. 21) at 2:64-67.	
“in real time” (’598 patent, claims 1, 9, 17, 21, 23; ’999 patent, claims 9, 10; ’047 patent, claims 1, 4, 7, 10)	“in which the input or processing of data occurs concurrently with an external activity and in time to affect that activity” <u>Citations to intrinsic evidence:</u> All claims of the patents-in-suit. ’598 patent at Abstract, 1:56-2:1, 4:49-67, 5:32-42, 5:44-58, 6:40-41, 7:34-8:9, 9:33-40, 13:59-67, 14:15-18, 30:19-34, 30:58-63, 33:40-46, 35:62-67, Fig. 4. Prosecution History of AU 2007/252290, June 20, 2018 Statement of Proposed Amendments (Ex. 10) U.S. Pat. No. 7,613,629 (Ex. 23) at 15:16-21.	“provided automatically to indicate the most recent data” <u>Citations to intrinsic evidence:</u> ’598 patent at Abstract, 5:44-48, 7:20-8:9, 33:34-42, 36:1-37:51, Figs. 4, 5. Australian Provisional Patent Application 2006902685 (Exhibit 25) at 13, 14.
“in near real time” (’999 patent, claim 1)	Not indefinite. <u>Citations to intrinsic evidence:</u> All claims of the ’999 patent. ’999 patent at 8:14-32, 8:61-9:3, 9:6-20, 10:2-3, 11:1-12:3, 13:23-30, 17:66-18:7, 18:22-25, 33:52-67, 34:25-29, 37:6-12, 39:26-31, Fig. 4. File History of ’354 patent, April 1, 2019 Preliminary Amendment (Ex. 9).	Indefinite. <u>Citations to intrinsic evidence:</u> ’598 patent at Abstract, 5:44-48, 7:20-8:9, 33:34-42, 36:1-37:51, Figs. 4, 5, cls. 1, 9, 17, 21, 23. ’999 patent, cls. 1, 9, 10. ’047 patent, cls. 1, 4, 7, 10. Australian Provisional Patent Application 2006902685 (Exhibit 25) at 13, 14.

	Prosecution History of AU 2007/252290, June 20, 2018 Statement of Proposed Amendments (Ex. 10) U.S. Pat. No. 7,613,629 (Ex. 23) at 15:16-21.	
“adjusting, via the computerized network, a price of the items in the transportation services inventory allocated to each of the linked online distribution channels” / “adjusting a price of inventory items allocated to each of the respective distribution channels” (’598 patent, claims 1, 9, 17, 21, 23; ’999 patent, claims 1, 9, 10)	Not indefinite. <u>Citations to intrinsic evidence:</u> All claims of the ’598 and ’999 patents. ’598 patent at 5:1-41, 6:9-59, 7:6-17, 7:25-33, 9:38-41, 10:10-45, 14:25-16:15, 32:45-33:3.	Indefinite. <u>Citations to intrinsic evidence:</u> ’598 patent at 2:1-6, 2:37-41, 3:2-7, 3:57-62, 4:50-55, 5:1-18, 5:25-35, 5:52-53, 6:9-13, 6:18-22, 6:28-59, 7:9-17, 7:58-60, 8:7-9, 10:7-45, 12:39-46, 32:45-33:3, 34:22-24, cls. 1, 4, 9, 12, 17, 21, 23. ’999 patent, cls. 1, 4, 7, 9, 10. Australian Provisional Patent Application 2006902685 (Exhibit 25) at 4, 5, 6, 8, 9, 10, 11, 12, 14, 16, 17.
’598 patent, claims 21-24; ’047 patent, claims 7 and 10	Not indefinite.	Indefinite.

II. THE PARTIES’ POSITIONS WITH RESPECT TO “MEANS FOR” LIMITATIONS

Claim Term	SurgeTech’s Position	Uber’s Position
“means for linking, via a computerized network, each of a plurality of items in the transportation services inventory with one of a plurality of online distribution channels, thereafter each being a linked online distribution channel in	Subject to 35 U.S.C. §112, ¶6. Not indefinite. <u>Function:</u> linking, via a computerized network, each of a plurality of items in the transportation services inventory with one of a plurality of online distribution channels, thereafter each being a linked online	Subject to 35 U.S.C. §112, ¶6. <u>Function:</u> linking, via a computerized network, each of a plurality of items in the transportation services inventory with one of a plurality of online distribution channels, thereafter each being a linked online distribution channel in a plurality of linked online distribution

a plurality of linked online distribution channels, by allocating each of the plurality of items to the corresponding linked online distribution channel” (’598 patent, claims 21 and 23)	distribution channel in a plurality of linked online distribution channels, by allocating each of the plurality of items to the corresponding linked online distribution channel <u>Corresponding Structure:</u> any of the corresponding structure sufficient to perform the above function identified in the ’598 patent at 4:17-23, 4:38-62, 5:44-51, 7:43-44, 8:12-9:9, 9:15-27, 9:33-10:6, 10:49-63, Table 1, Table 2, Table 3, Table 4, Table 5, Table 6, Table 7, Table 8, Table 9, Table 10, Table 11, Table 12, 29:52-65, 30:35-57, 31:9-15, 33:4-11, 39:58-41:15, Fig. 1, Fig. 2, Fig. 3, Fig. 4, or Fig. 5, or their equivalents.	channels, by allocating each of the plurality of items to the corresponding linked online distribution channel <u>Structure:</u> algorithm disclosed at ’598 patent, 30:35–57, 31:9–15, and 33:4–11, or its equivalent.
“means for receiving, from each of the plurality of linked online distribution channels in real time via the computerized network, sale data pertaining to the one or more online bookings for one or more of the items in the plurality of items allocated to the corresponding linked online distribution channel” (’598 patent, claims 21 and 23)	Subject to 35 U.S.C. §112, ¶6. <u>Function:</u> receiving, from each of the plurality of linked online distribution channels in real time via the computerized network, sale data pertaining to the one or more online bookings for one or more of the items in the plurality of items allocated to the corresponding linked online distribution channel <u>Corresponding Structure:</u> A general-purpose computer without special programming. Alternatively, any of the corresponding structure sufficient to perform the above function identified in the ’598 patent at 4:17-28, 4:38-48, 4:50-55, 5:44-67, 6:65-7:1, 7:13-17, 7:20-38, 7:39-54, 7:58-8:6, 8:50-9:9, 9:33-52, 10:23-28, 11:22-13:8, 13:13-	Subject to 35 U.S.C. §112, ¶6. <u>Function:</u> receiving, from each of the plurality of linked online distribution channels in real time via the computerized network, sale data pertaining to the one or more online bookings for one or more of the items in the plurality of items allocated to the corresponding linked online distribution channel <u>Structure:</u> algorithm disclosed at ’598 patent, 7:39–54, 35:42–52, 36:8–19, 36:38–53, and Fig. 8, or its equivalent.

	14:24, 14:25-16:15, Table 1, Table 2, Table 3, Table 4, Table 5, Table 6, Table 7, Table 8, Table 9, Table 10, Table 11, Table 12, 30:18-34, 33:25-38:65, 39:58-41:15, Fig. 1, Fig. 2, Fig. 3, Fig. 4, Fig. 5, Fig. 6, Fig. 7, Fig. 8, Fig. 9, Fig. 10, Fig. 11, or Fig. 12, or their equivalents.	
“means for processing the sale data by carrying out calculations to obtain a performance rating for each of the plurality of linked online distribution channels” (’598 patent, claims 21 and 23)	Not subject to 35 U.S.C. §112, ¶6. To the extent the Court holds that this term is subject to 35 U.S.C. §112, ¶6, it should be construed in the following manner: <u>Function:</u> processing the sale data by carrying out calculations to obtain a performance rating for each of the plurality of linked online distribution channels <u>Corresponding Structure:</u> A general-purpose computer without special programming. Alternatively, any of the corresponding structure sufficient to perform the above function identified in the ’598 patent at 4:17-37, 4:49-67, 5:52-6:43, 6:65-7:1, 7:23-33, 7:39-8:2, 9:26-27, 9:33-52, 10:20-42, 10:64-13:50, 13:56-14:24, 14:25-16:15, Table 1, Table 2, Table 3, Table 4, Table 5, Table 6, Table 7, Table 8, Table 9, Table 10, Table 11, Table 12, 29:18-65, 30:58-31:47, 33:12-24, 34:25-35, 39:22-26, 39:58-41:15, Fig. 1, Fig. 2, Fig. 3, Fig. 3, Fig. 4, or Fig. 5, or their equivalents.	Subject to 35 U.S.C. §112, ¶6. <u>Function:</u> processing the sale data by carrying out calculations to obtain a performance rating for each of the plurality of linked online distribution channels <u>Structure:</u> algorithm disclosed at ’598 patent, 9:34-44, 11:21-31, and 31:17-31, or its equivalent.

“means for determining that the performance rating of at least one of the plurality of linked online distribution channels is better than the performance rating of other linked online distribution channels in the plurality of linked online distribution channels” (’598 patent, claim 21)	Subject to 35 U.S.C. § 112, ¶6. <u>Function:</u> determining that the performance rating of at least one of the plurality of linked online distribution channels is better than the performance rating of other linked online distribution channels in the plurality of linked online distribution channels <u>Corresponding Structure:</u> any of the corresponding structure sufficient to perform the above function identified in the ’598 patent at 5:1-24, 5:52-6:8, 6:60-7:5, 9:15-27, 10:11-28, 11:34-53, 12:47-13:8, 13:10-50, 13:56-14:24, 14:25-16:15, 31:20-51, 32:22-44, 39:22-24, 39:58-41:15, Fig. 1, Fig. 2, Fig. 3, Fig. 4, or Fig. 5, or their equivalents.	Subject to 35 U.S.C. §112, ¶6. <u>Function:</u> determining that the performance rating of at least one of the plurality of linked online distribution channels is better than the performance rating of other linked online distribution channels in the plurality of linked online distribution channels <u>Structure:</u> algorithm disclosed at ’598 patent, 5:53–6:8, 6:60–7:5, 11:34–45, and 31:32–43, or its equivalent.
“means for determining that the performance rating of at least one of the plurality of linked online distribution channels is worse than the performance rating of other linked online distribution channels in the plurality of linked online distribution channels” (’598 patent, claim 23)	Subject to 35 U.S.C. § 112, ¶6. <u>Function:</u> determining that the performance rating of at least one of the plurality of linked online distribution channels is worse than the performance rating of other linked online distribution channels in the plurality of linked online distribution channels <u>Corresponding Structure:</u> any of the corresponding structure sufficient to perform the above function identified in the ’598 patent at 5:1-24, 5:52-6:8, 6:60-7:5, 9:15-27, 10:11-28, 11:34-53, 12:47-13:8, 13:10-50, 13:56-14:24, 14:25-16:15, 31:20-51, 32:22-44, 39:22-24, 39:58-41:15, Fig. 1, Fig. 2, Fig. 3, Fig. 4, or Fig. 5, or their equivalents.	Subject to 35 U.S.C. §112, ¶6. <u>Function:</u> determining that the performance rating of at least one of the plurality of linked online distribution channels is worse than the performance rating of other linked online distribution channels in the plurality of linked online distribution channels <u>Structure:</u> algorithm disclosed at ’598 patent, 5:53–6:8, 6:60–7:5, 11:34–45, and 31:32–43, or its equivalent.

“means for adjusting, via the computerized network, a price of said one or more of the items allocated to the corresponding linked online distribution channel” (’598 patent, claims 21 and 23)	Subject to 35 U.S.C. §112, ¶6. <u>Function:</u> adjusting, via the computerized network, a price of said one or more of the items allocated to the corresponding linked online distribution channel <u>Corresponding Structure:</u> A general-purpose computer without special programming. Alternatively, any of the corresponding structure sufficient to perform the above function identified in the ’598 patent at 4:17-37, 4:44-48, 5:1-41, 5:52-67, 6:9-59, 6:60-7:5, 7:6-17, 9:33-10:6, 10:10-45, 11:34-53, 12:47-13:8, 13:10-50, 13:56-14:24, 14:25-16:15, 29:20-51, 32:22-44, 32:45-33:3, 39:58-41:15, Fig. 1, Fig. 2, Fig. 3, Fig. 4, or Fig. 5, or their equivalents.	Subject to 35 U.S.C. §112, ¶6. <u>Function:</u> adjusting, via the computerized network, a price of said one or more of the items allocated to the corresponding linked online distribution channel <u>Structure:</u> algorithm disclosed at ’598 patent, 6:32–59, 7:9–17, 14:26–15:1, and 32:47–33:3, or its equivalent
“means for modifying, via the computerized network, the linkage of said one or more of the items to the corresponding linked online distribution channel by re-allocating said one or more of the items in the transportation services inventory to or from the corresponding linked online respective distribution channel in the plurality of linked online distribution channels from or to one or more of the other linked	Subject to 35 U.S.C. §112, ¶6. <u>Function:</u> modifying, via the computerized network, the linkage of said one or more of the items to the corresponding linked online distribution channel by re-allocating said one or more of the items in the transportation services inventory to or from the corresponding linked online respective distribution channel in the plurality of linked online distribution channels from or to one or more of the other linked online distribution channels in the plurality of linked online distribution channels	Subject to 35 U.S.C. §112, ¶6. <u>Function:</u> modifying, via the computerized network, the linkage of said one or more of the items to the corresponding linked online distribution channel by re-allocating said one or more of the items in the transportation services inventory to or from the corresponding linked online respective distribution channel in the plurality of linked online distribution channels from or to one or more of the other linked online distribution channels in the plurality of linked online distribution channels

online distribution channels in the plurality of linked online distribution channels” (’598 patent, claims 21 and 23)	<u>Corresponding Structure:</u> any of the corresponding structure sufficient to perform the above function identified in the ’598 patent at 4:17-28, 4:44-48, 5:1-41, 5:44-51, 7:6-12, 9:15-27, 11:45-12:46, 12:47-13:8, 13:10-50, 13:56-14:24, Table 1, Table 2, Table 3, Table 4, Table 5, Table 6, Table 7, Table 8, Table 9, Table 10, Table 11, Table 12, 31:48-32:44, 33:4-11, 39:58-41:15, Fig. 1, Fig. 2, Fig. 3, Fig. 4, or Fig. 5, or their equivalents.	<u>Structure:</u> algorithm disclosed at ’598 patent, 11:45-58, 12:6-32, 12:55-13:3, 13:25-30, 13:59-67, and 31:48-32:44, or its equivalent.
“means for establishing, for each of the plurality of linked online distribution channels, a channel connection interface that (i) receives a user input selecting one of the plurality of linked online distribution channels and (ii) sends transportation services inventory data pertaining to said one or more of the items linked to the corresponding linked online distribution channel” (’598 patent, claims 22 and 24)	Not subject to 35 U.S.C. §112, ¶6. To the extent the Court holds that this term is subject to 35 U.S.C. §112, ¶6, it is not indefinite and should be construed in the following manner: <u>Function:</u> establishing, for each of the plurality of linked online distribution channels, a channel connection interface that (i) receives a user input selecting one of the plurality of linked online distribution channels and (ii) sends transportation services inventory data pertaining to said one or more of the items linked to the corresponding linked online distribution channel <u>Corresponding Structure:</u> any of the corresponding structure sufficient to perform the above function identified in the ’598 patent at 5:44-51, 9:66-10:6, 30:46-50, 32:1-21, 37:60-38:3, 39:58-41:15, Fig. 1, Fig. 2, Fig. 3, Fig. 4, or Fig. 5, or their equivalents.	Subject to 35 U.S.C. §112, ¶6. <u>Function:</u> establishing, for each of the plurality of linked online distribution channels, a channel connection interface that (i) receives a user input selecting one of the plurality of linked online distribution channels and (ii) sends transportation services inventory data pertaining to said one or more of the items linked to the corresponding linked online distribution channel. <u>Structure:</u> Indefinite

“means for establishing a channel interface that provides bidirectional communication between at least one server computing device and a vendor computing device” (’047 patent, claims 7 and 10)	Subject to 35 U.S.C. §112, ¶6. Not indefinite. <u>Function</u>: establishing a channel interface that provides bidirectional communication between at least one server computing device and a vendor computing device <u>Corresponding Structure</u>: any of the corresponding structure sufficient to perform the above function identified in the ’047 patent at 3:64-4:3, 4:18-28, 5:24-31, 29:26-30, 30:51-31:3, 31:53-60, 38:43-39:62, Fig. 1, Fig. 2, Fig. 3, Fig. 4, or Fig. 5, or their equivalents.	Subject to 35 U.S.C. §112, ¶6. <u>Function</u>: establishing a channel interface that provides bidirectional communication between at least one server computing device and a vendor computing device <u>Structure</u>: Indefinite
“means for storing, via a channel data structure, a channel record for each of a plurality of distribution channels” (’047 patent, claims 7 and 10)	Subject to 35 U.S.C. §112, ¶6. Not indefinite. <u>Function</u>: storing, via a channel data structure, a channel record for each of a plurality of distribution channels <u>Corresponding Structure</u>: A general-purpose computer without special programming. Alternatively, any of the corresponding structure sufficient to perform the above function identified in the ’047 patent at 3:44-51, 3:64-4:3, 4:18-42, 5:24-31, 7:24-25, 7:59-8:50, 8:56-67, 9:6-52, 10:29-44, Table 1, Table 2, Table 3, Table 4, Table 5, Table 6, Table 7, Table 8, Table 9, Table 10, Table 11, Table 12, 28:48-60, 29:14-37, 29:58-64, 31:53-60, 38:43-39:62, Fig. 1, Fig. 2, Fig. 3,	Subject to 35 U.S.C. §112, ¶6. <u>Function</u>: storing, via a channel data structure, a channel record for each of a plurality of distribution channels <u>Structure</u>: Indefinite

	Fig. 4, or Fig. 5, or their equivalents.	
“means for receiving, from the vendor computing device through the channel interface, a selection, from the plurality of distribution channels, of one or more participant channels for a transportation service” (’047 patent, claims 7 and 10)	Subject to 35 U.S.C. §112, ¶6. Not indefinite. <u>Function</u>: receiving, from the vendor computing device through the channel interface, a selection, from the plurality of distribution channels, of one or more participant channels for a transportation service <u>Corresponding Structure</u>: A general-purpose computer without special programming. Alternatively, any of the corresponding structure sufficient to perform the above function identified in the ’047 patent at 3:64-4:3, 4:18-28, 5:24-31, 9:45-52, 29:26-30, 30:51-31:3, 36:40-50, 38:43-39:62, Fig. 1, Fig. 2, Fig. 3, Fig. 4, or Fig. 5, or their equivalents.	Subject to 35 U.S.C. §112, ¶6. <u>Function</u>: storing, via a channel data structure, a channel record for each of a plurality of distribution channels <u>Structure</u>: Indefinite
“means for establishing, via the channel data structure, one or more active channel records based upon the one or more participant channels for the transportation service” (’047 patent, claims 7 and 10)	Subject to 35 U.S.C. §112, ¶6. Not indefinite. <u>Function</u>: establishing, via the channel data structure, one or more active channel records based upon the one or more participant channels for the transportation service <u>Corresponding Structure</u>: any of the corresponding structure sufficient to perform the above function identified in the ’047 patent at 1:50-2:59, 4:18-28, 5:24-31, 29:26-30, 30:51-31:10,	Subject to 35 U.S.C. §112, ¶6. <u>Function</u>: establishing, via the channel data structure, one or more active channel records based upon the one or more participant channels for the transportation service <u>Structure</u>: Indefinite

	31:53-60, 38:43-39:62, Fig. 1, Fig. 2, Fig. 3, Fig. 4, or Fig. 5, or their equivalents.	
“means for establishing, via the channel data structure, one or more inactive channel records based upon one or more non-participant channels for the transportation service” (’047 patent, claims 7 and 10)	Subject to 35 U.S.C. §112, ¶6. Not indefinite. <u>Function</u>: establishing, via the channel data structure, one or more inactive channel records based upon one or more non-participant channels for the transportation service <u>Corresponding Structure</u>: any of the corresponding structure sufficient to perform the above function identified in the ’047 patent at 4:18-28, 5:24-31, 29:26-30, 30:51-31:10, 31:53-60, 38:43-39:62, Fig. 1, Fig. 2, Fig. 3, Fig. 4, or Fig. 5, or their equivalents.	Subject to 35 U.S.C. §112, ¶6. <u>Function</u>: establishing, via the channel data structure, one or more inactive channel records based upon one or more non-participant channels for the transportation service <u>Structure</u>: Indefinite
“means for linking the one or more active channel records to the channel interface” (’047 patent, claims 7 and 10)	Subject to 35 U.S.C. § 112, ¶6. Not indefinite. <u>Function</u>: linking the one or more active channel records to the channel interface <u>Corresponding Structure</u>: any of the corresponding structure sufficient to perform the above function identified in the ’047 patent at 3:64-4:8, 4:18-30, 4:48-53, 5:24-31, 7:24-25, 8:4-7, 8:28-49, 9:46-52, Table 1, Table 2, Table 3, Table 4, Table 5, Table 6, Table 7, Table 8, Table 9, Table 10, Table 11, Table 12, 28:64-67, 29:26-30, 29:58-64, 30:51-31:3, 31:53-60, 37:58-67, 38:43-39:62, Fig. 1, Fig. 2, Fig. 3, Fig. 3, Fig. 4, or Fig. 5, or their equivalents.	Subject to 35 U.S.C. §112, ¶6. <u>Function</u>: linking the one or more active channel records to the channel interface <u>Structure</u>: Indefinite

“means for receiving, in real time for the one or more participant channels corresponding to the one or more active channel records linked to the channel interface, sale data corresponding to at least one or more additional vendor computing devices” (’047 patent, claims 7 and 10)	Not subject to 35 U.S.C. §112, ¶6. To the extent the Court holds that this term is subject to 35 U.S.C. §112, ¶6, it is not indefinite and should be construed in the following manner: <u>Function</u>: receiving, in real time for the one or more participant channels corresponding to the one or more active channel records linked to the channel interface, sale data corresponding to at least one or more additional vendor computing devices <u>Corresponding Structure</u>: A general-purpose computer without special programming. Alternatively, any of the corresponding structure sufficient to perform the above function identified in the ’047 patent at 3:64-4:8, 4:18-28, 4:30-35, 5:24-47, 6:46-49, 6:61-65, 7:1-19, 7:20-35, 7:39-53, 8:28-49, 9:6-31, 10:2-7, 11:4-12:57, 12:63-14:7, 14:8-67, Table 1, Table 2, Table 3, Table 4, Table 5, Table 6, Table 7, Table 8, Table 9, Table 10, Table 11, Table 12, 28:63-29:31, 32:7-37:44, 38:43-39:62, Fig. 1, Fig. 2, Fig. 3, Fig. 4, Fig. 5, Fig. 6, Fig. 7, Fig. 8, Fig. 9, Fig. 10, Fig. 11, or Fig. 12, or their equivalents.	Subject to 35 U.S.C. §112, ¶6. <u>Function</u>: receiving, in real time for the one or more participant channels corresponding to the one or more active channel records linked to the channel interface, sale data corresponding to at least one or more additional vendor computing devices <u>Structure</u>: Indefinite
“means [for] determining a performance indicator in real time, for each of the one or more participant channels corresponding to the	Subject to 35 U.S.C. §112, ¶6. Not indefinite. <u>Function</u>: determining a performance indicator in real time, for each of the one or more	Subject to 35 U.S.C. §112, ¶6. <u>Function</u>: determining a performance indicator in real time, for each of the one or more participant channels corresponding to the one or more

one or more active channel records linked to the channel interface, based at least on the sale data corresponding to said at least one or more additional vendor computing devices” (’047 patent, claims 7 and 10)	participant channels corresponding to the one or more active channel records linked to the channel interface, based at least on the sale data corresponding to said at least one or more additional vendor computing devices <u>Corresponding Structure</u>: any of the corresponding structure sufficient to perform the above function identified in the ’047 patent at 3:64-4:17, 4:29-47, 5:32-6:24, 6:46-49, 7:4-14, 7:20-53, 8:66-67, 9:6-31, 9:66-10:20, 10:46-13:32, 13:38-14:7, 14:8-67, Table 1, Table 2, Table 3, Table 4, Table 5, Table 6, Table 7, Table 8, Table 9, Table 10, Table 11, Table 12, 27:40-28:60, 29:38-30:30, 31:61-32:6, 33:7-17, 38:1-3, 38:43-39:62, Fig. 1, Fig. 2, Fig. 3, Fig. 3, Fig. 4, or Fig. 5, or their equivalents.	active channel records linked to the channel interface, based at least on the sale data corresponding to said at least one or more additional vendor computing devices <u>Structure</u>: Indefinite
“means for adjusting, via the channel interface, a price of the transportation service by an adjustment factor if the performance indicator indicates a performance that fails to meet a performance threshold” (’047 patent, claim 7)	Subject to 35 U.S.C. §112, ¶6. Not indefinite. <u>Function</u>: adjusting, via the channel interface, a price of the transportation service by an adjustment factor if the performance indicator indicates a performance that fails to meet a performance threshold <u>Corresponding Structure</u>: any of the corresponding structure sufficient to perform the above function identified in the ’047 patent at 3:64-4:17, 4:24-28, 4:48-5:21, 5:33-47, 5:56-6:40, 6:41-53, 6:54-65, 9:6-52, 9:56-10:25, 11:16-35, 12:29-57, 12:59-	Subject to 35 U.S.C. §112, ¶6. <u>Function</u>: adjusting, via the channel interface, a price of the transportation service by an adjustment factor if the performance indicator indicates a performance that fails to meet a performance threshold <u>Structure</u>: Indefinite

	13:32, 13:38-14:7, 14:8-67, 27:43-28:47, 31:4-26, 31:27-52, 38:43-39:62, Fig. 1, Fig. 2, Fig. 3, Fig. 4, or Fig. 5, or their equivalents.	
“means for adjusting, via the channel interface, a price of the transportation service by an adjustment factor if the performance indicator indicates a performance that meets a performance threshold” (’047 patent, claim 10)	Subject to 35 U.S.C. §112, ¶6. Not indefinite. <u>Function</u>: adjusting, via the channel interface, a price of the transportation service by an adjustment factor if the performance indicator indicates a performance that meets a performance threshold <u>Corresponding Structure</u>: any of the corresponding structure sufficient to perform the above function identified in the ’047 patent at 3:64-4:17, 4:24-28, 4:48-5:21, 5:33-47, 5:56-6:40, 6:41-53, 6:54-65, 9:6-52, 9:56-10:25, 11:16-35, 12:29-57, 12:59-13:32, 13:38-14:7, 14:8-67, 27:43-28:47, 31:4-26, 31:27-52, 38:43-39:62, Fig. 1, Fig. 2, Fig. 3, Fig. 4, or Fig. 5, or their equivalents.	Subject to 35 U.S.C. §112, ¶6. <u>Function</u>: adjusting, via the channel interface, a price of the transportation service by an adjustment factor if the performance indicator indicates a performance that meets a performance threshold <u>Structure</u>: Indefinite

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Jeremy A. Tigan

Jack B. Blumenfeld (#1014)
Jeremy A. Tigan (#5239)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
jblumenfeld@morrisnichols.com
jtigan@morrisnichols.com

OF COUNSEL:

Kevin P.B. Johnson
QUINN EMANUEL URQUHART & SULLIVAN LLP
555 Twin Dolphin Drive, 5th Floor
Redwood Shores, CA 94065
(650) 801-5000
kevinjohnson@quinnemanuel.com

Eric H. Huang
James M. Glass
Sean T. Gloth
QUINN EMANUEL URQUHART & SULLIVAN LLP
51 Madison Avenue
New York, NY 10010
(212) 849-7000
erichuang@quinnemanuel.com
jimglass@quinnemanuel.com
seangloth@quinnemanuel.com

Quincy Lu
Christopher Smith
QUINN EMANUEL URQUHART & SULLIVAN LLP
1109 First Avenue, Suite 210
Seattle, WA 98101
(206) 905-7000
quincylu@quinnemanuel.com
christophersmith@quinnemanuel.com

Attorneys for Plaintiff SurgeTech, LLC

March 24, 2023

FARNAN LLP

/s/ Brian E. Farnan

Brian E. Farnan (#4089)
Michael J. Farnan (#5165)
919 North Market Street, 12th Floor
Wilmington, DE 19801
(302) 777-0300
bfarnan@farnanlaw.com
mfarnan@farnanlaw.com

OF COUNSEL:

Mark N. Reiter
Robert A. Vincent
Audrey Yang
Ashbey N. Morgan
GIBSON, DUNN & CRUTCHER LLP
2001 Ross Avenue, Suite 2100
Dallas, TX 75201-6912
(214) 698-3100
mreiter@gibsondunn.com
rvincent@gibsondunn.com
ayang@gibsondunn.com
anmorgan@gibsondunn.com

Andrew W. Robb
GIBSON, DUNN & CRUTCHER LLP
1881 Page Mill Road
Palo Alto, CA 94304-1211
(650) 849-5300
arobb@gibsondunn.com

*Attorneys for Defendant Uber Technologies,
Inc. d/b/a Uber*