

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

SurgeTech, LLC,

Plaintiff,

v.

Uber Technologies, Inc.,

Defendant.

C.A. No. 22-cv-882-GBW

JURY TRIAL DEMANDED

**DEFENDANT UBER TECHNOLOGIES, INC.’S
IDENTIFICATION OF CLAIM CONSTRUCTIONS**

Pursuant to the Court’s Scheduling Order (D.I. 34) and the Court’s order granting the parties’ stipulation amending the scheduling order (D.I. 54), Defendant Uber Technologies, Inc. (“Defendant” or “Uber”) hereby identifies constructions for the following terms, phrases, and clauses of the presently-asserted claims of U.S. Patent Nos. 11,360,999; 11,334,598; and 11,475,047.

Uber is available to meet and confer with SurgeTech for purposes of finalizing this list of proposed constructions, narrowing or resolving differences, and facilitating the ultimate preparation of a Joint Claim Construction Statement. Discovery is early in this case and, therefore, Uber reserves the right to amend, modify, or later raise further issues with regard to claim construction as those issue present themselves. Uber proposes the following constructions for the following terms, phrases, and clauses in the asserted claims (and any variations thereof)—as well as shorter or isolated terms, phrases, and clauses contained within the longer terms, phrases, or clauses in the list below:

Claim Term	Proposed Construction
“inventory” (’999 patent: claims 1–5, 8–10; ’598 patent: claims 1–2, 4–6, 8–10, 12–14, 16–19, 21–24; ’047 patent: claims 1–2, 4–5, 7–8, 10–11)	“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”
“distribution channel” (’999 patent: claims 1, 2, 5–10; ’598 patent: claims 1, 3, 6, 8–11, 14–19, 21–24; ’047 patent: claims 1, 4, 7, 10)	“reseller that distributes inventory to consumers”
“performance rating” (’999 patent: claims 1, 9, 10; ’598 patent: claims 1, 8, 9, 16, 17, 21, 23)	“indicator for how well inventory items are being sold/have been sold through a particular distribution channel”
“in real time” (’999 patent: claims 9, 10; ’598 patent: claims 1, 9, 17, 21, 23)	“provided automatically to indicate the most recent data”
“at least one of . . . and . . .” (’999 patent: claims 1, 9, 10; ’598 patent: 1, 9, 10, 21, 23)	Indefinite
“near real time” (’999 patent: claim 1)	Indefinite
’598 patent, claims 21–24; ’047 patent, claims 7 and 10	Indefinite
“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 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, 23)	Subject to 35 U.S.C. § 112 ¶ 6. Function: 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 channels, by allocating each of the plurality of items to the corresponding linked online distribution channel Structure: Indefinite
“means for receiving, from each of the plurality of linked online distribution channels in real time via the computerized network, sale data	Subject to 35 U.S.C. § 112 ¶ 6. Function: receiving, from each of the plurality of linked online distribution channels in real

Claim Term	Proposed Construction
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, 23)	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 Structure: algorithm disclosed at ’598 patent at 7:39–54, 35:42–52, 36:8–19, 36:38–53, Fig. 8
“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, 23)	Subject to 35 U.S.C. § 112 ¶ 6. Function: processing the sale data by carrying out calculations to obtain a performance rating for each of the plurality of linked online distribution channels Structure: algorithm disclosed at ’598 patent at 9:34–44, 11:21–31, 31:17–31
“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. Function: 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 Structure: algorithm disclosed at ’598 patent at 5:53–6:8, 6:60–7:5, 11:34–45, 31:32–43
“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. Function: 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 Structure: algorithm disclosed at ’598 patent at 5:53–6:8, 6:60–7:5, 11:34–45, 31:32–43
“means for adjusting, via the computerized network, a price of said one or more of the items allocated to the	Subject to 35 U.S.C. § 112 ¶ 6. Function: adjusting, via the computerized network, a price of said one or more of the items

Claim Term	Proposed Construction
corresponding linked online distribution channel” (’598 patent: claims 21, 23)	allocated to the corresponding linked online distribution channel Structure: algorithm disclosed at ’598 patent at 6:32–59, 7:9–17, 14:26–15:1, 32:47–33:3
“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 online distribution channels in the plurality of linked online distribution channels” (’598 patent: claims 21, 23)	Subject to 35 U.S.C. § 112 ¶ 6. Function: 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 Structure: algorithm disclosed at ’598 patent at 11:45–58, 12:6–32, 12:55–13:3, 13:25–30, 13:59–67, 31:48–32:44
“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, 24)	Subject to 35 U.S.C. § 112 ¶ 6. Function: 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 Structure: 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, 10)	Subject to 35 U.S.C. § 112 ¶ 6. Function: establishing a channel interface that provides bidirectional communication between at least one server computing device and a vendor computing device Structure: Indefinite
“means for storing, via a channel data structure, a channel record for each of a plurality of distribution channels”	Subject to 35 U.S.C. § 112 ¶ 6.

Claim Term	Proposed Construction
('047 patent: claims 7, 10)	<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 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, 10)	Subject to 35 U.S.C. § 112 ¶ 6. <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>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, 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
“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, 10)	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, 10)	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, 10)	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

Claim Term	Proposed Construction
	Structure: Indefinite
“means [for] determining a performance indicator in real time, for each of the one or more 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” (’047 patent: claims 7, 10)	Subject to 35 U.S.C. § 112 ¶ 6. Function: determining a performance indicator in real time, for each of the one or more 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 Structure: 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. Function: 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 Structure: 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 meets a performance threshold” (’047 patent: claim 10)	Subject to 35 U.S.C. § 112 ¶ 6. Function: 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 Structure: Indefinite

Date: March 1, 2023

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CERTIFICATE OF SERVICE

I, Brian E. Farnan, hereby certify that on March 1, 2023, a copy of Defendant Uber Technologies, Inc.'s Identification of Claim Constructions was served on the following as indicated:

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