

BAKER BOTTS L.L.P.

1 Jeremy J. Taylor (SBN 249075)
jeremy.taylor@bakerbotts.com
2 **BAKER BOTTS L.L.P.**
101 California Street, Suite 3600
3 San Francisco, CA 94111
Tel: (415) 291-6200
4 Fax: (415) 291-6300

5 Bryant C. Boren, Jr. (SBN 260602)
bryant.c.boren@bakerbotts.com
6 Elizabeth K. Boggs (SBN 280555)
betsy.boggs@bakerbotts.com
7 John F. Gaustad (SBN 279893)
john.gaustad@bakerbotts.com
8 Keith M. Jurek (SBN 310856)
keith.jurek@bakerbotts.com

9 **BAKER BOTTS L.L.P.**
1001 Page Mill Road
10 Building One, Suite 200
Palo Alto, California 94304
11 Phone: (650) 739-7500
Fax: (650) 739-7699

12 Jennifer C. Tempesta (*admitted pro hac vice*)
13 **BAKER BOTTS L.L.P.**
30 Rockefeller Plaza
14 New York, NY 10112
Phone: (212) 408-2500
15 Fax: (212) 408-2501

16 *Attorneys for Defendant LYFT, INC.*

17 **UNITED STATES DISTRICT COURT**
18 **NORTHERN DISTRICT OF CALIFORNIA**
OAKLAND DIVISION

<p>19 RIDEAPP, INC.</p> <p>20</p> <p>21 Plaintiff,</p> <p>22 v.</p> <p>23 LYFT, INC.</p> <p>24 Defendant.</p>	<p>Case No. 18-CV-07152-JST</p>	<p>LYFT, INC.’S NOTICE OF MOTION AND</p> <p>MOTION FOR ATTORNEYS’ FEES</p> <p>Judge: Hon. Jon S. Tigar</p> <p>Date: January 22, 2020</p> <p>Time: 2:00 p.m.</p> <p>Courtroom: 6 – 2nd Floor</p>
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13 *Takeda Chem. Indus., Ltd., v. Mylan Labs., Inc.*,
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NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on January 22, 2020 or as soon thereafter as the matter may be heard, in Courtroom 6 – 2nd Floor, 1301 Clay Street, Oakland, CA 94612, Defendant Lyft, Inc. (“Lyft”) moves the Court for attorneys’ fees under 35 U.S.C. § 285. This motion is based on this Notice of Motion, the attached memorandum of points and authorities in support thereof, the pleadings and documents on file in this case, and such other evidence and argument as may be presented at the hearing on this motion.

STATEMENT OF RELIEF REQUESTED

Lyft asks the Court to find this case “exceptional” under 35 U.S.C. § 285 and award Lyft a portion of the reasonable attorneys’ fees it has incurred since July 17, 2019—the day the Patent Office first found the asserted claims (claims 2, 3, and 6) of U.S. Patent No. 6,697,730 (the “’730 Patent”) indefinite under 35 U.S.C. § 112, ¶ 2. Lyft specifically requests the Court award Lyft \$569,254.34, in addition to any further reasonable attorneys’ fees incurred by Lyft in pursuing this motion.¹

MEMORANDUM OF POINTS AND AUTHORITIES**I. INTRODUCTION**

This case is exceptional. From the beginning of the case, Lyft asserted that RideApp Inc.’s (“RideApp”) Patent was invalid as indefinite under 35 U.S.C. § 112. Lyft explained this in its Answer, in its Invalidity Contentions, in its Petition for *Inter Partes* Review (“IPR”) filed with the Patent Office, and finally in its claim construction disclosures and briefing which resulted in this Court confirming the invalidity of the ’730 Patent. Although RideApp’s pre-suit diligence should have revealed the invalidity of the ’730 Patent, when the Patent Office confirmed the invalidity of the ’730 Patent, not once, but twice, RideApp was fully aware its patent was invalid. Despite this, RideApp refused to dismiss the case and offered no explanation of how RideApp could continue to plausibly assert the ’730 Patent in light of the Patent Office’s invalidity findings.

¹ Lyft reserves the right to also seek fees in defending against any appeal of this Court’s Judgment

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