

1 KRISTIN A. LINSLEY, SBN 154148  
klinsley@gibsondunn.com  
2 ROSEMARIE T. RING, SBN 220769  
rring@gibsondunn.com  
3 LAURA K. O'BOYLE, *pro hac vice*  
loboyle@gibsondunn.com  
4 JACOB T. SPENCER, *pro hac vice*  
jspencer@gibsondunn.com  
5 GIBSON, DUNN & CRUTCHER LLP  
555 Mission Street, Suite 3000  
6 San Francisco, CA 94105-0921  
Telephone: 415.393.8200

7  
8 ASHLEY M. SIMONSEN, SBN 275203  
asimonsen@cov.com  
9 PHYLLIS A. JONES, *pro hac vice*  
pajones@cov.com  
10 ISAAC D. CHAPUT, SBN 326923  
ichaput@cov.com  
11 COVINGTON & BURLING LLP  
415 Mission Street, Suite 5400  
San Francisco, CA 94105  
12 Telephone: 415.591.6000

13 *Attorneys for Defendant Meta Platforms, Inc.*  
14 *f/k/a Facebook, Inc.*

JONATHAN H. BLAVIN, SBN 230269  
jonathan.blavin@mto.com  
ROSE LEDA EHLER, SBN 296523  
rose.ehler@mto.com  
LAUREN BELL, *pro hac vice*  
lauren.bell@mto.com  
LAURA M. LOPEZ, SBN 313450  
laura.lopez@mto.com  
ARIEL TESHUVA, SBN 324238  
ariel.teshuva@mto.com  
MUNGER, TOLLES & OLSON, LLP  
560 Mission Street, 27th Floor  
San Francisco, CA 94105  
Telephone: 415.512.4000

*Attorneys for Defendant Snap, Inc.*

ALBERT Q. GIANG, SBN 224332  
agiang@kslaw.com  
GEOFFREY M. DRAKE, *pro hac vice*  
gdrake@kslaw.com  
DAVID P. MATTERN, *pro hac vice*  
dmattern@kslaw.com  
KING & SPALDING LLP  
633 West Fifth Street, Suite 1600  
Los Angeles, CA 90071  
Telephone: 213.443.4310

*Attorneys for Defendants*  
*TikTok Inc. and ByteDance Inc.*

17 UNITED STATES DISTRICT COURT  
18 NORTHERN DISTRICT OF CALIFORNIA  
19 SAN FRANCISCO DIVISION

20 TAMMY RODRIGUEZ, individually and as  
the Personal Representative of the Estate of  
21 Selena Rodriguez,

22 Plaintiff,

23 v.

24 META PLATFORMS, INC.,  
f/k/a FACEBOOK, INC.; SNAP, INC.;  
25 TIKTOK INC.; and BYTEDANCE INC.,

26 Defendants.

CASE NO. 3:22-CV-00401-JD

**DEFENDANTS' NOTICE OF JOINT  
MOTION AND JOINT MOTION TO  
DISMISS SECOND AMENDED  
COMPLAINT; MEMORANDUM OF  
POINTS AND AUTHORITIES IN SUPPORT  
THEREOF**

*Declaration of Rosemarie T. Ring and*  
*[Proposed] Order filed concurrently*

**Hearing:**

Date: October 13, 2022  
Time: 10:00 a.m.  
Judge: Hon. James Donato  
Courtroom: 11, 19th Floor

**NOTICE OF MOTION AND MOTION**

PLEASE TAKE NOTICE THAT, on October 13, 2022, or as soon thereafter as the matter may be heard, before the Honorable James Donato, in Courtroom 11, Floor 19, of the United States District Court for the Northern District of California, located at 450 Golden Gate Avenue, San Francisco, California 94102, Defendants Meta Platforms, Inc., Snap, Inc., TikTok Inc., and ByteDance Inc. will and hereby do move this Court, under Federal Rule of Civil Procedure 12(b)(6), for an order dismissing with prejudice all of the claims in Plaintiff’s Second Amended Complaint.

This motion is based on the memorandum of points and authorities submitted herewith, any reply memorandum or other papers submitted in connection with the motion, the pleadings and other documents filed in this action, any matter of which this Court may properly take judicial notice, and any information presented at argument.

**STATEMENT OF ISSUES TO BE DECIDED**

1. Whether Plaintiff’s claims are barred by Section 230 of the Communications Decency Act, 47 U.S.C. § 230.
2. Whether Plaintiff’s claims are barred by the First Amendment.
3. Whether Plaintiff has stated a claim for strict product liability, negligence, violations of the Unfair Competition Law, or violations of federal trafficking laws.

DATED: July 25, 2022

GIBSON, DUNN & CRUTCHER LLP

By:           /s/ Rosemarie T. Ring            
ROSEMARIE T. RING

DATED: July 25, 2022

COVINGTON & BURLING LLP

By:           /s/ Ashley M. Simonsen            
ASHLEY M. SIMONSEN

Attorneys for META PLATFORMS, INC.

*Additional Signatures on Next Page*

1 DATED: July 25, 2022

MUNGER, TOLLES & OLSON LLP

2  
3 By:           /s/ Jonathan H. Blavin            
4 JONATHAN H. BLAVIN

5 Attorneys for SNAP, INC.

6 DATED: July 25, 2022

KING & SPALDING LLP

7  
8 By:           /s/ Albert Q. Giang            
9 ALBERT Q. GIANG

10 Attorneys for TIKTOK INC. and BYTEDANCE INC.  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TABLE OF CONTENTS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

	<b>Page</b>
I. INTRODUCTION .....	1
II. SUMMARY OF ALLEGATIONS.....	2
III. ARGUMENT.....	4
A. Plaintiff’s Claims Are Barred By Section 230.....	4
1. Defendants’ Apps Are Interactive Computer Services .....	5
2. Plaintiff’s Claims Treat Defendants As Publishers .....	5
3. Plaintiff’s Claims Depend On Content Provided By Third Parties .....	10
B. The First Amendment Bars Plaintiff’s Claims.....	11
C. The SAC Fails To State Essential Elements Of Its Claims.....	13
1. Plaintiff’s Strict Product Liability Claims Fail Because Defendants’ Apps Do Not Satisfy The Legal Definition Of A “Product” .....	13
2. Plaintiff’s Negligence Claim Fails Because Plaintiff Alleges No Legally Viable Duty .....	14
3. Plaintiff Does Not Plausibly Allege Causation.....	16
4. None of Plaintiff’s UCL Theories Is Adequately Pled .....	18
5. Plaintiff Does Not State A Claim Under The Federal Trafficking Laws .....	20
IV. CONCLUSION.....	22

**TABLE OF AUTHORITIES****Page(s)****CASES**

1		
2		
3	<b>CASES</b>	
4	<i>Ashcroft v. Iqbal</i> ,	
5	556 U.S. 662 (2009).....	4, 21
6	<i>Est. of B.H. v. Netflix, Inc.</i> ,	
7	2022 WL 551701 (N.D. Cal. Jan. 12, 2022).....	2, 9, 13, 14
8	<i>Barnes v. Yahoo!, Inc.</i> ,	
9	570 F.3d 1096 (9th Cir. 2009) .....	5, 6, 7
10	<i>Batzel v. Smith</i> ,	
11	333 F.3d 1018 (9th Cir. 2003) .....	5
12	<i>Bell Atl. Corp. v. Twombly</i> ,	
13	550 U.S. 544 (2007).....	13
14	<i>Brown v. Ent. Merchants Ass'n</i> ,	
15	564 U.S. 786 (2011).....	12
16	<i>Brown v. USA Taekwondo</i> ,	
17	11 Cal. 5th 204 (2021) .....	14, 15
18	<i>Carafano v. Metrosplash.com, Inc.</i> ,	
19	339 F.3d 1119 (9th Cir. 2003) .....	4, 7
20	<i>Cel-Tech Commc'ns, Inc. v. L.A. Cellular Tel. Co.</i> ,	
21	20 Cal. 4th 163 (1999) .....	19
22	<i>Crosby v. Twitter, Inc.</i> ,	
23	921 F.3d 617 (6th Cir. 2019) .....	17
24	<i>Daniel v. Armslist, LLC</i> ,	
25	926 N.W.2d 710 (Wis. 2019) .....	7
26	<i>Doe #1 v. Red Roof Inns, Inc.</i> ,	
27	21 F.4th 714 (11th Cir. 2021) .....	20, 21
28	<i>Doe 3 v. Red Roof Inns, Inc.</i> ,	
	2020 WL 1872333 (N.D. Ga. Apr. 13, 2020) .....	22
	<i>Doe II v. MySpace, Inc.</i> ,	
	175 Cal. App. 4th 561 (2009) .....	7
	<i>Doe v. Cochran</i> ,	
	210 A.3d 469 (Conn. 2019).....	15
	<i>Doe v. Facebook, Inc.</i> ,	
	No. 2019-16262 (151st Dist. Ct., Harris Cty., Tex. Oct. 4, 2019).....	14
	<i>Doe v. Kik Interactive, Inc.</i> ,	
	482 F. Supp. 3d 1242 (S.D. Fla. 2020).....	6, 20, 21

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.