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11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

14 MISTY HONG, individually and on
behalf of all others similarly situated,

15 Plaintiff,

16 vs.

17 BYTEDANCE, INC., a corporation,
18 TIKTOK, INC., a corporation;
BEIJING BYTEDANCE
19 TECHNOLOGY CO. LTD., a
privately-held company; and
20 MUSICAL.LY, a corporation.

21 Defendants.

CASE NO.

**CLASS ACTION COMPLAINT
FOR:**

- (1) Violation of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030
- (2) Violation of the California Comprehensive Data Access and Fraud Act, Cal. Pen. C. § 502
- (3) Violation of the Right to Privacy - California Constitution
- (4) Intrusion upon Seclusion
- (5) Violation of the California Unfair Competition Law, Bus. & Prof. C. §§ 17200 et seq.
- (6) Violation of the California False Advertising Law, Bus. & Prof. C. §§ 17500 et seq.
- (7) Negligence
- (8) Restitution / Unjust Enrichment

DEMAND FOR JURY TRIAL

INTRODUCTION

1
2 1. TikTok is one of the most popular entertainment apps for mobile
3 devices in the United States. It has acquired one of the largest installed user bases in
4 the country on the strength of its popular 15-second videos of fun activities like
5 dancing, lip-syncing, and stunts. Unknown to its users, however, is that TikTok also
6 includes Chinese surveillance software. TikTok clandestinely has vacuumed up and
7 transferred to servers in China vast quantities of private and personally-identifiable
8 user data that can be employed to identify, profile and track the location and
9 activities of users in the United States now and in the future. TikTok also has
10 surreptitiously taken user content, such as draft videos never intended for
11 publication, without user knowledge or consent. In short, TikTok's lighthearted fun
12 comes at a heavy cost. Meanwhile, TikTok unjustly profits from its secret harvesting
13 of private and personally-identifiable user data by, among other things, using such
14 data to derive vast targeted-advertising revenues and profits. Its conduct violates
15 statutory, Constitutional, and common law privacy, data, and consumer protections.

THE PARTIES

16
17 2. Plaintiff Misty Hong is, and at all relevant times was, an individual and
18 resident of Palo Alto, California.

19 3. Defendant ByteDance, Inc. is, and at all relevant times was, a Delaware
20 corporation with its principal place of business in Palo Alto, California.

21 4. Defendant TikTok, Inc. f/k/a Musical.ly, Inc. ("TikTok") is, and at all
22 relevant times was, a California corporation with its principal place of business in
23 Culver City, California.¹ Defendant TikTok also maintains offices in Palo Alto,
24 California and Mountain View, California.² The name change from Musical.ly, Inc.

25
26 ¹ <https://www.cnbc.com/2019/10/14/tiktok-has-mountain-view-office-near-facebook-poaching-employees.html>.

27 ² <https://www.washingtonpost.com/technology/2019/11/05/inside-tiktok-culture-clash-where-us-views-about-censorship-often-were-overridden-by-chinese-bosses/>; <https://www.cnbc.com/2019/10/14/tiktok-has-mountain-view-office-near-facebook-poaching-employees.html>.

1 to TikTok, Inc. occurred in May 2019.

2 5. Defendant Musical.ly is, and at all relevant times was, a Cayman Island
3 corporation with its principal place of business in Shanghai, China. Defendant
4 Musical.ly was the parent company of Musical.ly, Inc.

5 6. Defendant Beijing ByteDance Technology Co. Ltd. (“Beijing
6 ByteDance”) is, and at all relevant times was, a privately held company
7 headquartered in Beijing, China. Defendant Beijing ByteDance acquired Defendants
8 Musical.ly and Musical.ly, Inc. in December 2017 prior to Musical.ly, Inc.
9 becoming TikTok, Inc. Defendant Beijing ByteDance paid between \$800 million
10 and \$1 billion for this acquisition.³ Beijing ByteDance is the 100% owner of
11 Defendant ByteDance, Inc.

12 **JURISDICTION AND VENUE**

13 7. This Court has subject matter jurisdiction over this action pursuant to
14 28 U.S.C. § 1332(d) & 1367 because: (i) this is a class action in which the matter in
15 controversy exceeds the sum of \$5,000,000, exclusive of interest and costs; (ii) there
16 are 100 or more class members; and (iii) some members of the class are citizens of
17 states different from some Defendants, and also because two Defendants are citizens
18 or subjects of a foreign state.

19 8. This Court has personal jurisdiction over Defendants because: (i) they
20 transact business in the United States, including in this District; (ii) they have
21 substantial aggregate contacts with the United States, including in this District; (iii)
22 they engaged and are engaging in conduct that has and had a direct, substantial,
23 reasonably foreseeable, and intended effect of causing injury to persons throughout
24 the United States, including in this District, and purposely availed themselves of the
25 laws of the United States.

26 9. In accordance with 28 U.S.C. § 1391, venue is proper in this District

27 _____
28 ³ <https://www.wsj.com/articles/lip-syncing-app-musical-ly-is-acquired-for-as-much-as-1-billion-1510278123>;
<https://www.nytimes.com/2019/11/01/technology/tiktok-national-security-review.html>.

1 because: (i) a substantial part of the conduct giving rise to Plaintiff Misty Hong's
2 claims occurred in and/or emanated from this District; (ii) Defendants transact
3 business in this District; (iii) one Defendant has its principal place of business in this
4 District; (iv) two Defendants have offices in this District; and (v) Ms. Hong resides
5 in this District.

6 GENERAL ALLEGATIONS

7 Defendant Beijing ByteDance Becomes a Chinese Tech Giant Focused on 8 Overseas Markets, Including Those in the United States.

9 10. Defendant Beijing ByteDance was founded in 2012 and makes a
10 variety of video and news-aggregation apps.⁴ It “regards its platforms as part of an
11 artificial intelligence company powered by algorithms that ‘learn’ each user’s
12 interests and preferences through repeat interaction.”⁵ Because Defendant Beijing
13 ByteDance emerged only after other Chinese tech giants had taken over the Chinese
14 market, Defendant Beijing ByteDance has looked to overseas markets, including
15 those in the United States, for growth.⁶

16 11. Defendant Beijing ByteDance had \$7.2 billion in annual revenue for
17 the year 2018. It has far surpassed this number in 2019, booking \$7 billion to \$8.4
18 billion in revenue in a better-than-expected result for the first half of 2019.⁷
19 Defendant Beijing ByteDance currently is worth between \$75 billion and \$78
20 billion.⁸ Investors in Defendant Beijing ByteDance include Sequoia Capital China,
21

22 ⁴ <https://www.wsj.com/articles/tiktoks-videos-are-goofy-its-strategy-to-dominate-social-media-is-serious-11561780861>.

23 ⁵ October 23, 2019 letter from Senators Charles Schumer and Tom Cotton to Acting Director of National Intelligence
24 Joseph Maguire.

25 ⁶ <https://www.wsj.com/articles/tiktoks-videos-are-goofy-its-strategy-to-dominate-social-media-is-serious-11561780861>.

26 ⁷ <https://www.cnbc.com/2019/09/30/tiktok-owner-bytedances-first-half-revenue-better-than-expected-at-over-7-billion-sources.html>.

27 ⁸ <https://www.washingtonpost.com/technology/2019/11/05/inside-tiktok-culture-clash-where-us-views-about-censorship-often-were-overridden-by-chinese-bosses/>; <https://www.reuters.com/article/us-tiktok-cfius-exclusive/exclusive-us-opens-national-security-investigation-into-tiktok-sources-idUSKBN1XB4IL>.
28

1 Russian billionaire Yuri Milner, Japanese technology giant SoftBank, and big
2 private-equity firms such as KKR, General Atlantic, and Hillhouse Capital Group.⁹

3 12. Most of Defendant Beijing ByteDance’s revenue is generated from
4 advertising.¹⁰ “ByteDance has [] been doubling down on its advertising business as
5 the company’s management sets increasingly ambitious revenue goals.”¹¹ “As with
6 pretty much all major social media and content startups, ByteDance monetises
7 through advertising. Specifically, it runs targeted advertising within user feeds –
8 providing them promotional content in between using the app.”¹²

9 **The Musical.ly App Evolves into the TikTok App.**

10 13. Defendants Musical.ly and Musical.ly, Inc. launched the highly-popular
11 social media and social networking app “Muscial.ly” in 2014. This app allows its
12 users to (i) create video selfies of themselves dancing and/or lip-syncing with a
13 musical soundtrack in the background, and (ii) share such videos with friends.¹³
14 There are simple tools provided by the app that users can utilize to create and edit
15 these videos, and the app provides a large online music library from which users
16 may select their background music. The Musical.ly app was designed “to capture the
17 YouTube phenomenon of teenagers sharing videos of themselves singing or dancing
18 to popular music.”¹⁴ Beyond the creation and sharing of videos, the Musical.ly app
19 provides a platform through which users can interact, including by commenting on
20 other users’ videos and “following” other users’ accounts. Users also can send direct
21 messages in order to communicate with other users on the app. By November 2017,

22 _____
23 ⁹ <https://www.wsj.com/articles/lip-syncing-app-musical-ly-is-acquired-for-as-much-as-1-billion-1510278123>;
24 <https://www.reuters.com/article/us-tiktok-cfius-exclusive/exclusive-us-opens-national-security-investigation-into-tiktok-sources-idUSKBN1XB4IL>.

25 ¹⁰ <https://www.bloomberg.com/news/articles/2019-01-15/bytedance-is-said-to-hit-lower-end-of-sales-goal-amid-slowdown>.

26 ¹¹ <https://technode.com/2019/09/20/bytedance-launches-video-ad-tools-for-tiktok-douyin/>.

27 ¹² <https://www.businessofapps.com/insights/bytedance-social-media-advertising-company/>.

28 ¹³ <https://www.wsj.com/articles/lip-syncing-app-musical-ly-is-acquired-for-as-much-as-1-billion-1510278123>.

¹⁴ <https://www.wsj.com/articles/lip-syncing-app-musical-ly-is-acquired-for-as-much-as-1-billion-1510278123>.

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