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9 *Attorneys for Plaintiffs and the Proposed Class*

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

12 P. S., a minor, by and through her Guardian, )  
13 Cherise Slate, and M. T. W., a minor, by and )  
through her Guardian, Brenda Washington, )  
14 individually and on behalf of all others )  
15 similarly situated, )  
16 Plaintiff(s), )  
17 vs. )  
18 TIKTOK, INC., a corporation, and )  
19 BYTEDANCE, INC., a corporation, )  
20 Defendant(s). )

**CASE NO.**

**CLASS ACTION COMPLAINT:**

**(1) Violation of Illinois Biometric  
Information Privacy Act, 740 ILCS  
14/1 et seq., § 15**

**DEMAND FOR JURY TRIAL**

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1 Plaintiffs P. S., a minor, by and through her guardian Cherise Slate, and M. T. W., a minor,  
2 by and through her guardian Brenda Washington, on behalf of themselves and other similarly  
3 situated individuals, bring this Class Action Complaint against Defendants TikTok, Inc.,  
4 (“TikTok”) both individually and as a successor-in-interest to Musical.ly, Inc. (“musical.ly”) and  
5 ByteDance, Inc., (“ByteDance”) (collectively referred to herein as “Defendants”) and allege as  
6 follows:

### 7 INTRODUCTION

8 1. TikTok, Inc. has created one of the most popular social media networking apps in  
9 the United States (“TikTok App” or the “App”). The App allows users to create, view, and share  
10 three to fifteen-second videos of dancing, lip-syncing, and other forms of self-expression, as well  
11 as short looping videos of three to sixty seconds.

12 2. The App’s playful features belie Defendants’ reliance on users’ private, biometric  
13 information. The App scans a user’s facial geometry before running an algorithm to determine the  
14 user’s age. The App also uses facial scans to allow users to superimpose animated facial filters  
15 onto the moving faces of video subjects.

16 3. Defendants do not inform the App’s users that their biometric data is being  
17 collected, captured, received, obtained, stored, and/or used by the App. Nor do Defendants disclose  
18 what they do with that data, who has access to that data, and whether, where, and for how long  
19 that data is stored.

20 4. By collecting, capturing, receiving, obtaining, storing and/or using facial scans  
21 without obtaining informed consent and by failing to make public their data use and retention  
22 policy, Defendants violate the Illinois Biometric Information Privacy Act (“BIPA”), 740 ILCS  
23 14/1 *et seq.*

24 5. Plaintiffs bring this action individually and on behalf of proposed classes in order  
25 to enjoin Defendants’ continued violation of BIPA and to recover statutory damages for  
26 Defendants’ unauthorized collection, capture, receipt, storage, and/or use of biometric information  
27 belonging to TikTok App users in Illinois.

1 **PARTIES**

2 6. Plaintiff P. S., a minor, is and has been at all relevant times, a resident and citizen  
3 of the state of Illinois. P. S. brings this case by and through her guardian, Cherise Slate, a resident  
4 and citizen of the state of Illinois. P. S. began using TikTok in 2019.

5 7. Plaintiff M. T. W., a minor, is and has been at all relevant times, a resident and  
6 citizen of the state of Illinois. M. T. W. brings this case by and through her guardian, Brenda  
7 Washington, a resident and citizen of the state of Illinois. M. T. W. began using TikTok in 2018.

8 8. Defendant TikTok, Inc. is, and at all relevant times was, a California corporation  
9 with its principal place of business in Culver City, California. Defendant also maintains offices in  
10 Palo Alto and Mountain View, California.

11 9. TikTok, Inc. is sued in its individual capacity and as the successor-in-interest to  
12 Musical.ly, Inc., a California Corporation formerly headquartered in Palo Alto, California.

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

15 **JURISDICTION AND VENUE**

16 11. This Court has subject matter jurisdiction pursuant to the Class Action Fairness  
17 Act, 28 U.S.C. § 1332(d) (“CAFA”) because (i) the proposed class consists of well over 100  
18 members; (ii) the parties are minimally diverse as all members of the proposed class, including  
19 Plaintiffs, are citizens of Illinois—a state different from Defendants’ home states of California and  
20 Delaware; and (iii) the aggregate amount in controversy exceeds \$5,000,000, exclusive of interest  
21 and costs. The estimated number of Illinois TikTok users impacted by Defendants’ conduct  
22 multiplied by BIPA’s statutory liquidated damages figure (\$5,000 for each intentional or reckless  
23 violation and \$1,000 for each negligent violation) exceeds CAFA’s \$5,000,000 threshold.

24 12. This Court has personal jurisdiction over Defendants because (i) both Defendants’  
25 principal places of business are in the State of California, and Defendant TikTok, Inc. is  
26 incorporated in the State of California; and (ii) because the allegations in this Complaint arise from  
27 Defendants’ misconduct occurring within this State.

1 13. In accordance with 28 U.S.C. § 1391, venue is proper in this District because:  
2 (i) Defendant ByteDance, Inc.’s principal place of business is in this District; and (ii) a substantial  
3 part of the conduct giving rise to Plaintiffs’ claims occurred in or emanated from this District.

4 **FACTUAL ALLEGATIONS**

5 **A. Biometric Information and BIPA.**

6 14. In 2008, Illinois enacted BIPA in light of the “very serious need [for] protections  
7 for the citizens of Illinois when it comes to [their] biometric information.”<sup>1</sup>

8 15. Biometrics are unlike other unique identifiers used to access finances or other  
9 sensitive information. “For example, social security numbers, when compromised, can be changed.  
10 Biometrics, however, are biologically unique to the individual; therefore, once compromised, the  
11 individual has no recourse, is at heightened risk for identity theft, and is likely to withdraw from  
12 biometric-facilitated transactions.”<sup>2</sup>

13 16. To address this legitimate concern, Section 15(b) of BIPA provides that:

14 No private entity may collect, capture, purchase, receive through  
15 trade, or otherwise obtain a person’s or a customer’s biometric  
16 identifier or biometric information, unless it first:

- 17 (1) informs the subject or the subject’s legally authorized  
18 representative in writing that a biometric identifier or  
19 biometric information is being collected or stored;  
20 (2) informs the subject or the subject’s legally authorized  
21 representative in writing of the specific purpose and  
22 length of term for which a biometric identifier or  
23 biometric information is being collected, stored, and  
24 used; and  
25 (3) receives a written release executed by the subject of the  
26 biometric identifier or biometric information or the  
27 subject’s legally authorized representative.<sup>3</sup>

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<sup>1</sup> 95th Ill. Gen. Assem. House Proceedings, May 30, 2008, at 249 (statement of Representative Ryg), available at <http://www.ilga.gov/house/transcripts/htrans95/09500276.pdf>.

<sup>2</sup> 740 ILCS 14/5(c).

<sup>3</sup> 740 ILCS 14/15(b).

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