

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**Pixmarx IP LLC,**

**Plaintiff,**

**v.**

**TikTok Inc.,**

**Defendant.**

**Civil Action No. 6:20-cv-736**

**Jury Trial Demanded**

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**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Pixmarx IP LLC files this Complaint against TikTok Inc. for infringement of U.S. Patent No. 9,792,662 (“the ’662 patent”), U.S. Patent No. 10,102,601 (“the ’601 patent”), and U.S. Patent No. 10,489,873 (“the ’873 patent”). The ’662 patent, ’601 patent, and ’873 patent are referred to collectively as the “patents-in-suit.”

**THE PARTIES**

1. Plaintiff **Pixmarx IP LLC** (“**Pixmarx**”) is a Texas limited liability company with its principal place of business located in Dallas, Texas.
2. Defendant **TikTok Inc.** (“**TikTok**”) is a California corporation with a regular and established place of business in Austin, Texas. TikTok may be served with process through its registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.
3. TikTok is a video-sharing social networking service owned by ByteDance, a Beijing-based Internet technology company founded in 2012. TikTok’s mobile application (the “TikTok app”) was launched in 2017 for iOS and Android in most markets outside of mainland China and is used to create short music, lip-sync, dance, comedy and talent videos. On information and belief, the TikTok app has been widely used across the United States since, at

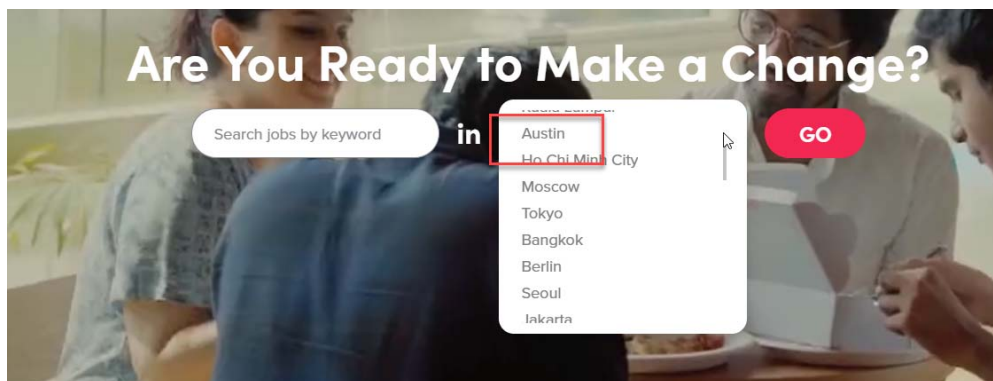
least, August 2018, and the TikTok servers that serve the United States market are located in this country. As of August 2020, TikTok has surpassed 1 billion users worldwide, and the TikTok app has been downloaded more than 80 million times in the United States alone.

4. The TikTok app allows users to create short videos of themselves, often featuring music in the background. The videos can be sped up, slowed down and/or edited with a filter. Users can also add their own sound on top of the background music. To create a music video with the TikTok app, users can choose background music from a wide variety of music genres, edit with a filter, and record a 15-second video with speed adjustments before uploading it to share with others on TikTok or other social media platforms.

### **JURISDICTION AND VENUE**

5. This action arises under the patent laws of the United States, 35 U.S.C. § 101, *et seq.* This Court’s jurisdiction over this action is proper under the above statutes, including 35 U.S.C. § 271, *et seq.*, 28 U.S.C. § 1331 (federal question jurisdiction) and § 1338 (jurisdiction over patent actions).

6. This Court has personal jurisdiction over TikTok in accordance with due process and/or the Texas Long Arm Statute because TikTok does business in this state by, among other things, “recruit[ing] Texas residents, directly or through an intermediary located in this state, for employment inside or outside this state.” TEX. CIV. PRAC. & REM. CODE § 17.042(3):



See <https://careers.tiktok.com/>; *see also, e.g.*, Exs. 1, 2.

7. Further, this Court has personal jurisdiction over TikTok because TikTok has engaged, and continues to engage, in continuous, systematic, and substantial activities within this state, including the substantial marketing and sale of products and services within this state and this District. Indeed, this Court has personal jurisdiction over TikTok because TikTok has committed acts giving rise to Pixmarx's claims for patent infringement within and directed to this District, has derived substantial revenue from its goods and services provided to individuals in this state and this District, and, upon information and belief, maintains a regular and established place of business in this District, including offices in Austin, Texas. *See, e.g.*, Ex. 3, 4. For example, senior executives at TikTok have noted, "We have many exciting roles across Ops, Training, Quality, Policy, Data, and more to fill in our Austin office," and "The TikTok Austin Office is growing fast! Check out these great new jobs to join Rebecca Sawyer in building an amazing team!" Ex. 3.

8. Relative to patent infringement, TikTok has committed and continues to commit acts in violation of 35 U.S.C. § 271, and has made, used, marketed, distributed, offered for sale, and/or sold infringing products and services in this state, including in this District, and otherwise engaged in infringing conduct within and directed at, or from, this District. Such infringing products and services, namely the TikTok app, have been and continue to be distributed to, sold, and used in this District and the infringing conduct has caused, and continues to cause, injury to Pixmarx, including injury suffered within this District. These are purposeful acts and transactions in this state and this District such that TikTok reasonably should know and expect that it could be haled into this Court because of such activities.

9. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b) because a substantial part of the events or omissions giving rise to the Pixmarx claims occurred in this District, because TikTok has committed acts of infringement in this District, and because TikTok has a regular and established place of business in this District. Indeed, TikTok conducts business in this District, including offering to sell, selling, and distributing infringing products and services to TikTok customers in this District, servicing infringing products and services in this District, and/or inducing the use of infringing products and services by TikTok's customers in this District. And, upon information and belief, TikTok maintains offices in this District (*see* Ex. 3) and hires and maintains employees in this District (*see* Exs. 1, 2), including an Office Administrator in Austin, Texas (*see* Ex. 4), all consistent with a substantial physical presence in this District.

10. The inventors of the patents-in-suit are Barry Crutchfield and Gary Lipps. Mr. Crutchfield resides within this District in Austin, Texas. Mr. Lipps resides nearby in Mandeville, Louisiana. Both are material witnesses.

### **THE PATENTS-IN-SUIT**

11. The '662 patent is entitled, "Embedding Digital Content Within a Digital Photograph During Capture of the Digital Photograph." The '662 patent lawfully issued on October 17, 2017 and stems from U.S. Patent Application No. 15/275,166, which was filed on September 23, 2016 and is a continuation of U.S. Patent Application No. 14/251,707, filed on April 14, 2014. A copy of the '662 patent is attached hereto as Ex. 5.

12. The '601 patent is entitled, "Embedding Digital Content Within a Digital Photograph During Capture of the Digital Photograph." The '601 patent lawfully issued on October 16, 2018 and stems from U.S. Patent Application No. 15/705,703, which is a

continuation of U.S. Patent Application No. 15/275,166 and was filed on September 15, 2017. A copy of the '601 patent is attached hereto as Ex. 6.

13. The '873 patent is entitled, "Embedding Digital Content Within a Digital Photograph During Capture of the Digital Photograph." The '873 patent lawfully issued on November 26, 2019 and stems from U.S. Patent Application No. 16/118,108, which is a continuation of U.S. Patent Application No. 15/705,703 and was filed on August 30, 2018. A copy of the '873 patent is attached hereto as Ex. 7.

14. Pixmarx is the owner of the patents-in-suit with all substantial rights, including the exclusive right to enforce, sue, and recover damages for past and future infringements.

15. The patents-in-suit arose from Mr. Crutchfield's and Mr. Lipp's development of the Pixmarx application, which was first released via the Apple App Store in November 2013.

16. The patents-in-suit share a specification and claim priority to U.S. Provisional Patent Application Serial No. 61/966,161, which was filed on February 15, 2014.

17. The claims of the patents-in-suit are directed to patent eligible subject matter under 35 U.S.C. § 101. They are not directed to an abstract idea, and the technologies covered by the claims consist of ordered combinations of features and functions that, at the time of invention, were not, alone or in combination, well-understood, routine, or conventional.

18. The specification of the patents-in-suit disclose shortcomings in the prior art and then explain, in detail, the technical way the claimed inventions resolve or overcome those shortcomings. *See, e.g.*, Ex. 7 ('873 patent), at 7:7-50. For example, the patents-in-suit explain that a disadvantage of prior art approaches to enhancing digital photographs was that they required application of separate processes after taking a photograph (e.g., editing a label, border, or special effect into a photograph after a photograph is taken). *See id.* at 2:9-16. The patents-

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