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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10  
11 C.H., a minor, by and through his  
Guardian, Marc Halpin, individually and  
12 on behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15 TIKTOK, INC., a corporation, and  
16 BYTEDANCE, INC., a corporation,

17 Defendants.

Case No.

**CLASS ACTION COMPLAINT**  
**DEMAND FOR JURY TRIAL**

1 Plaintiff C.H., a minor, by and through his guardian, (“Plaintiff), individually  
2 and on behalf of all others similarly situated, allege as follows against Defendants  
3 TikTok, Inc. (“TikTok”) both individually and as a successor-in-interest to  
4 Musical.ly, Inc. (“musical.ly”) and ByteDance, Inc. (“ByteDance”) (collectively,  
5 “Defendants”):

6 **I. INTRODUCTION**

7 1. Defendant TikTok maintains and operates one of the fastest growing  
8 social media applications in the United States (“App”). The App is a video-sharing  
9 network that allows users to create, view, and share short videos.

10 2. Unknown and undisclosed to its users, the App collects, stores and uses  
11 private, biometric information and biometric identifiers of users and those whose  
12 faces appear in users’ videos.

13 3. The App scans a user’s facial geometry and its algorithm subsequently  
14 uses that information to determine an estimate of the user’s age. The App also scans  
15 facial geometry of any subject that appears in a video to allow users to impose  
16 animated features onto the video subject’s face or otherwise alter the video subject’s  
17 face. TikTok encourages users to use these facial effects.

18 4. Defendants’ collection, storage, and use of biometric identifiers or  
19 biometric information is in violation of the Illinois Biometric Information Privacy  
20 Act, 740 ILCS 14/1 *et seq.* (“BIPA”).

21 5. Despite the BIPA’s requirement that private entities such as the  
22 Defendants receive informed consent prior to the collection of biometric identifiers  
23 or information, Defendants do not inform users that the App collects, captures,  
24 receives, obtains, stores, or otherwise uses the biometric identifiers or biometric  
25 information of users or the biometric identifiers or biometric information of their  
26 video subjects. Given that users are not informed of Defendants’ collection of  
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1 biometric identifiers or biometric information, users cannot, and have not, provided  
2 informed consent.

3 6. Defendants separately violate the BIPA by failing to develop a written  
4 policy, made available to the public, that establishes the retention schedule and  
5 guidelines for permanently destroying biometric data. Defendants do not disclose  
6 what they do with the biometric data, who has access to that biometric data, where  
7 that biometric data is stored, how long that biometric data is stored, or any guidelines  
8 for the destruction of biometric data.

9 7. Plaintiff brings this action individually and on behalf of a proposed  
10 class to enjoin Defendants' ongoing violations of the BIPA and to recover statutory  
11 damages for Plaintiff and Class members for each violation of the BIPA by the  
12 Defendants.

## 13 **II. JURISDICTION AND VENUE**

14 8. This Court has jurisdiction pursuant to the Class Action Fairness Act,  
15 28 U.S.C. § 1332(d). This is a class action in which the amount in controversy is in  
16 excess of \$5,000,000, excluding interest and costs. Putative Class members and  
17 Defendants are citizens of different states. There are more than 100 putative Class  
18 members.

19 9. This Court has personal jurisdiction over Defendants. Both Defendants  
20 regularly conduct business in the State of California, including, actions associated  
21 with the misconduct described in this Complaint. Both Defendants maintain their  
22 principal places of business in California, and Defendant TikTok, Inc. is  
23 incorporated in California.

24 10. Venue is proper in the jurisdiction pursuant to 28 U.S.C. §§ 1391(b),  
25 (c), and (d), because a substantial part of the events or omissions giving rise to  
26 Plaintiff's claims occurred in this District. TikTok maintains its principal place of  
27 business in this District.

### 1 **III. PARTIES**

2 11. Plaintiff C.H. is a 16-year old minor and a resident and citizen of  
3 Illinois. C.H. brings this action through his father and guardian, Marc Halpin, who  
4 is also a resident and citizen of Illinois.

5 12. C.H. is a registered user of the TikTok App and has used the App  
6 regularly to upload videos and use the App's facial filters on his own image and the  
7 images of others who appeared in his videos.

8 13. Plaintiff did not know or expect that Defendants collect, store, and use  
9 his biometric identifiers and biometric information when he uses the App or that  
10 Defendants collect, store, and use the biometric identifiers and biometric information  
11 of others whose faces appear in his videos. If Plaintiff had known, Plaintiff would  
12 not have used the App.

13 14. Neither Plaintiff, nor his legally authorized guardian, ever received  
14 notice from Defendants (written or otherwise) that Defendants would collect, store,  
15 or use his biometric identifiers or biometric information or that Defendants would  
16 collect, store, or use the biometric identifiers or biometric information of those  
17 whose faces appeared in videos he uploaded to the App.

18 15. Neither Plaintiff, nor his legally authorized guardian, ever received  
19 notice from Defendants of the specific purpose and length of time that Defendants  
20 would collect, store, or use Plaintiff's biometric identifiers or biometric information  
21 or the specific purpose and length of time that Defendants would collect, store, or  
22 use the biometric identifiers or biometric information of those whose faces appeared  
23 in Plaintiff's videos.

24 16. Neither Plaintiff, nor his legally authorized guardian, recall seeing the  
25 Terms of Service or Privacy Policies upon registered for an account with the App.  
26 Plaintiff does not recall seeing any notification from Defendants regarding changes  
27 to these policies.  
28

1           17. Defendant TikTok, Inc. is, and at all relevant times, was, a California  
2 corporation with its principal place of business in Culver City, California. It is sued  
3 in its individual capacity and as the successor-in-interest to Musical.ly, Inc.

4           18. Defendant ByteDance Inc. is, and at all relevant times was, a Delaware  
5 corporation with its principal place of business in Palo Alto, California. ByteDance  
6 Ltd., a company based in China, is the parent corporation of ByteDance, Inc.

#### 7       **IV. FACTUAL ALLEGATIONS**

##### 8           ***A. Biometrics and Consumer Privacy***

9           19. Biometrics are unique biological measurements that can be used for  
10 identification and authentication.

11          20. Common biometric identifiers include retina or iris scans, fingerprints  
12 voiceprints, fingerprints, and scans of hand or face geometry.

13          21. Recent improvements in facial recognition software has resulted in the  
14 growing capture, collection, and use of biometric data in commercial applications.  
15 The rise in commercial applications of facial recognition technology has also  
16 generated significant concern about the erosion of personal privacy and the potential  
17 for abuse inherent in the collection of an individual's unique biological information.

18          22. Despite the privacy concerns raised by regulators, legislators, and  
19 others, Defendants failed to obtain consent from Plaintiff and Class members before  
20 it employed its facial recognition technology on their images.

##### 21           ***B. The Illinois Biometric Information Privacy Act***

22          23. Illinois recognizes that biometrics are unlike other unique identifiers  
23 such as social security numbers or a driver's license that, when compromised, can  
24 be changed. Biometrics "are biologically unique to the individual"; therefore, "once  
25 compromised, the individual has no resource" and "is at heightened risk of identity  
26 theft." 740 ILCS 14/15. To protect the biometric identifiers and biometric

1 information of Illinois citizens, like the Plaintiff and Class members, Illinois enacted  
2 the Illinois Biometric and Information Privacy Act (“BIPA”) in 2008.

3 24. Section 15(b) of the BIPA provides that no private entity, such as the  
4 Defendants, may collect, capture, or otherwise obtain a person’s or a customer’s  
5 biometric identifier or biometric information, unless it first:

6 (1) informs the subject or the subject’s legally authorized representative  
7 in writing that a biometric identifier or biometric information is being  
collected or stored;

8 (2) informs the subject or the subject’s legally authorized representative  
9 in writing of the specific purpose and length of term for which a  
10 biometric identifier or biometric information is being collected, stored  
and used; and

11 (3) receives a written release executed by the subject of the biometric  
12 identifier or biometric information or the subject’s legally authorized  
representative.

13 740 ILCS 14/15(b).

14 25. The statute defines a “written release” to mean “informed written  
15 consent.” *Id.*

16 26. Section 15(a) of BIPA provides:

17 A private entity in possession of biometric identifiers or biometric  
18 information must develop a written policy, made available to the public,  
19 establishing a retention schedule and guidelines for permanently  
20 destroying biometric identifiers and biometric information when the  
initial purpose for collecting or obtaining such identifiers or  
information has been satisfied or within 3 years of the individual’s last  
interaction with the private entity, whichever comes first.

21 740 ILCS 14/15(a).

22 27. Section 15(c) of BIPA provides that no private entity, such as the  
23 Defendants, in possession of biometric identifier or biometric information “may  
24 disclose, redisclose, or otherwise disseminate a person’s or a customer’s biometric  
25 identifier or biometric information” unless “the subject of the biometric identifier or  
26 biometric information or the subject’s legally authorized representative consents to  
27 the disclosure or redisclosure.” 740 ILCS 14/15(d)(1).  
28

1           28. Within the definition of a “biometric identifier” in the BIPA, it  
2 specifically includes “a retina or iris scan, fingerprint, voiceprint, or scan of hand or  
3 face geometry.” 740 ILCS 14/10. The statute defines “biometric information” to  
4 mean “any information, regardless of how it is captured, converted, stored, or shared,  
5 based on an individual’s biometric identifier used to identify an individual.” *Id.*

6           29. BIPA further prohibits a private entity, such as the Defendants, that  
7 possess biometric identifiers or biometric information from selling, leasing, trading,  
8 or otherwise profiting from a person’s or a customer’s biometric identifier or  
9 biometric information. 740 ILCS 14/15(c).

10           30. Any private entity that possesses biometric identifiers or biometric  
11 information is required to store, transmit, and protect the biometric identifiers and  
12 biometric information using the “reasonable standard of care within the private  
13 entity’s industry.” 740 ILCS 14/15(e).

14           ***C. Defendants Violate Illinois’s Biometric Information Privacy Act***

15           31. ByteDance Inc. is a Delaware corporation. Its parent company,  
16 ByteDance Ltd., is based in China.

17           32. ByteDance Ltd. initially launched the TikTok App (originally called  
18 “A.me” in China but now called “Douyin”) in China. In 2016, the App was launched  
19 for iOS and Android in markets outside of China.

20           33. In 2017, ByteDance purchased musical.ly., a video-based social  
21 network that, like the TikTok App, allowed users to create and share short videos.  
22 Paul Mozur, *Musical.ly, a Chinese App Big in the U.S., Sells for \$1 Billion*, New  
23 York Times (Nov. 10, 2017), available at <https://nyti.ms/2zKQtZv> (last accessed  
24 May 28, 2020). The Musical.ly App collected, used, stored, and otherwise obtained  
25 face scans of users and video subjects to allow the use of face filters without  
26 informed consent in violation of the BIPA. TikTok merged the TikTok App with the  
27  
28

1 Musical.ly App to create a single video-based social network under the “TikTok”  
2 name.

3 34. The TikTok App has become one of the fastest growing social media  
4 platforms worldwide and in the United States. It has been downloaded more than 1.3  
5 billion times worldwide and more than 120 million times in the United States.

6 35. The TikTok App is immensely popular with a younger demographic.  
7 “About 60% of TikTok’s 26.5 million monthly active users in the United States are  
8 between the ages of 16 and 24.” Greg Roumeliotis, et al., *U.S. Opens National*  
9 *Security Investigation into TikTok*, Reuters (Nov. 1, 2019), *available at*  
10 <https://reut.rs/2yFv7fC> (last accessed May 28, 2020).

11 36. The TikTok App uses an artificial intelligence tool that automatically  
12 scans the faces of individuals appearing in videos posted to the App to estimate the  
13 subjects’ ages. *See, e.g.*, Georgia Wells Yoree Koh, *TikTok Wants to Grow Up but*  
14 *Finds it Tough to Keep Kids Out*, Wall Street Journal (Feb. 16, 2020), *available at*  
15 <https://on.wsj.com/2ZL9uFV> (last accessed May 28, 2020).

16 37. The TikTok App also contains a feature that permits users to  
17 superimpose facial features onto a subject’s moving face and which allows for  
18 editing of facial features. These features work by scanning the unique facial  
19 geometry of individuals, like Plaintiff and Class members, that appear in videos  
20 posted to the TikTok App.

21 38. Embedded within the App is another feature that “is designed to let  
22 users’ face-swap onto a selection of source videos” which “requires TikTok users to  
23 create a detailed multiple-angle biometric scan of their faces.” Peter Suci, *TikTok’s*  
24 *Deepfakes Just the Latest Security Issue for the Video Sharing App* Forbes (Jan. 7,  
25 2020), *available at* < <https://bit.ly/3ero9du> > (last accessed May 28, 2020).

26 39. TikTok’s features that result in the capture, collection, and use of scans  
27 of facial geometry and facial features raise significant privacy concerns.  
28



1           40. Upon information and belief, Defendant TikTok shares its users’  
2 private information, including biometric identifiers and information, with other  
3 members of its corporate family during the Class period, including Defendant  
4 ByteDance., and with its advertising partners. *See, e.g.* TikTok Privacy Policy (as of  
5 May 28, 2020), *available at* <https://www.tiktok.com/legal/privacy-policy?lang=en>  
6 (last accessed May 28, 2020). According to a ByteDance representative “that people  
7 made their faces available to other platforms, too.” Jay Tolentino, *How TikTok Holds*  
8 *Our Attention* (Sept. 23, 2019), *The New Yorker*, *available at* <  
9 <https://bit.ly/3dcku2N>> (last accessed May 28, 2020).

10           41. Defendants’ capture, collection and use of Plaintiff’s and Class  
11 members’ biometric identifiers or biometric information, including but not limited  
12 to scans of facial geometry and/or facial landmarks, violates all three prongs of  
13 Section 15(b) of the BIPA.

14           42. First, Defendants do not inform Plaintiff or Class members or their  
15 legally authorized representatives that it collects, captures, receives, obtains, stores,  
16 shares or uses their biometric identifiers or biometric information, as required by  
17 Section 15(b)(1).

18           43. Second, Defendants do not inform Plaintiff or Class members or their  
19 legally authorized representatives in writing (or otherwise) of the specific purpose  
20 and length of term for which a biometric identifier or biometric information is being  
21 collected, stored, or used, as required by Section (b)(2).

22           44. Third, Defendants have never obtained a written release or consent  
23 from Plaintiff or Class members or their legally authorized representatives before  
24 the collection, capture, storage, and/or use of their biometric identifiers and  
25 biometric information, as required by Section 15(b)(3).

26           45. Defendants also violate Section 15(a) of BIPA, by failing to develop a  
27 written policy, made available to the public, establishing a retention schedule and  
28

1 guidelines for permanently destroying biometric identifiers and biometric  
2 information when the initial purpose for collecting or obtaining such identifiers or  
3 information has been satisfied or within 3 years of the individual's last interaction  
4 with the TikTok App, whichever occurs first.

5 46. Defendants' violation of the BIPA have harmed Plaintiff by, among  
6 other things, violating their privacy and taking away their right to maintain and  
7 control their biometric identifiers and biometric information. Defendants' privacy  
8 invasions are especially troubling given that many of its users are minors.

9 **V. CLASS ACTION ALLEGATIONS**

10 47. Plaintiff brings this lawsuit pursuant to Rule 23(a), (b)(1), (b)(2), and  
11 (b)(3) of the Federal Rules of Civil Procedure on behalf of the following Class:

12 48. All individuals who had their biometric identifiers or biometric  
13 information, including scans of face geometry, collected, captured, received, or  
14 otherwise obtained by the Defendants through the Musical.ly or the TikTok App,  
15 while residing in Illinois.

16 49. Excluded from the Class are Defendants, as well as its legal  
17 representatives, officers, employees, assigns and successors, as well as all past and  
18 present employees, officers, and directors of Defendants. Also excluded from the  
19 Class is any judge or judicial officer who presides over this action and members of  
20 their immediate families and judicial staff.

21 50. Plaintiff reserves the right to amend the class definition based on  
22 information obtained through discovery or further investigation.

23 51. ***Numerosity***: The number of Class members is so numerous that joinder  
24 is impracticable. Plaintiff will be able to determine the exact number of Class  
25 members and identify each Class member through appropriate discovery, including  
26 discovery of Defendants' business records. Class members can be ascertained by  
27 objective criteria, such as use and geographic information. At a minimum, the Class  
28

contains thousands of persons. The disposition of Class members' claims in a single action will benefit the parties and the Court.

52. **Commonality:** There are questions of law and fact common to Plaintiff and all Class members that predominate over any questions that affect any individual Class member, including but not limited to:

- a. Whether Defendants collected, stored, or otherwise used Plaintiff's and Class members' biometric identifiers or biometric information;
- b. Whether Defendants properly informed Plaintiff and Class members that it collected, stored, or otherwise used their biometric identifiers or biometric information;
- c. Whether Defendants informed Plaintiff and Class members of the specific purpose and length of term for which their biometric identifier or biometric information would be collected, stored, and/or used;
- d. Whether Defendants obtained written release (as defined in 740 ILCS 14/10) from Plaintiff and Class members to collect, store, and/or use their biometric identifiers or biometric information;
- e. Whether Defendants developed a written policy, made available to the public, including Plaintiff and Class members, that established a retention schedule and guidelines for permanently destroying biometric identifiers and biometric information;
- f. Whether Defendants' violations of the BIPA were committed intentionally, recklessly, or negligently;
- g. Whether Plaintiff and Class members are entitled to statutory damages under the BIPA; and
- h. Whether Plaintiff and Class members are entitled to declaratory and injunctive relief.

53. **Typicality:** All of Plaintiff's claims are typical of the claims of the proposed Class he seeks to represent. His claims arise from the same conduct and practices that give rise to the claims of all Class members and are based on the same legal theories. Plaintiff, like all Class members, has had his biometric identifiers or biometric information collected, stored, and/or used by Defendants without his knowledge and without his informed consent.

54. ***Adequacy of Representation:*** Plaintiff will fairly and adequately represent the interests of the Class. Plaintiff has no interest adverse to those of other Class members and is committed to vigorously prosecuting this case. Plaintiff has retained counsel skilled and experienced in consumer class actions and complex litigation.

55. ***Superiority***: A class action is superior to all other available methods for the fair and efficient adjudication of this controversy. Class treatment of common questions is superior to multiple individual actions that would risk inconsistent or contradictory judgments and increase the costs of resolving this matter for all parties and the court system. By contrast, a class action presents far fewer management difficulties and offers the benefit of a single adjudication, economies of scale, and comprehensive supervision by a single court. Absent a class action, Class members would find the cost of litigating their BIPA claims prohibitively high and would have no effective remedy. A class action promotes orderly adjudication of the Class claims and presents fewer management difficulties.

**FIRST CAUSE OF ACTION**

## Violations of 740 ILCS 14/15(b)

56. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

57. Defendants are “private entities” as defined by 740 ILCS 14/10 because Defendant TikTok is a California corporation and Defendant ByteDance, Inc. is a Delaware corporation.

58. Plaintiff and Class members are individuals who had their biometric identifiers or biometric information collected, captured, received, obtained, stored, and/or used by Defendants through the TikTok App.

1           59. In violation of 740 ILCS 14/15(b)(1), Defendants did not inform  
2 Plaintiff and Class members or their legally authorized representatives in writing  
3 that their biometric identifiers or biometric information would be collected or stored.

4           60. In violation of 740 ILCS 14/15(b)(2), Defendants did not inform  
5 Plaintiff and Class members or their legally authorized representative in writing of  
6 the specific purpose and length of term for which a biometric identifier or biometric  
7 information is being collected, stored, and used.

8           61. In violation of 740 ILCS 14/15(b)(3), Defendants collected, captured,  
9 received, otherwise obtained, stored, and/or used Plaintiff's and Class members'  
10 biometric identifiers and information without first obtaining a written release.

11           62. By collecting, capturing, receiving, otherwise obtaining, storing, and/or  
12 using Plaintiff's and the other Class members' biometric identifiers and biometric  
13 information, Defendants violated the rights of Plaintiff and Class members to keep  
14 private these biometric identifiers and biometric information.

15           63. These privacy violations already have harmed Plaintiff and the other  
16 Class members and will continue to harm, in an amount to be proven at trial.

17           64. Upon information and belief, Defendants' violations of 740 ILSC  
18 14/15(b) were intentional or reckless. Defendants deliberately designed and  
19 implemented the artificial intelligence tools and facial filters in the TikTok App that  
20 collect, capture, receive, otherwise obtain, store, and/or use biometric identifiers and  
21 biometric information. In addition, Defendants intentionally or recklessly did not  
22 obtain informed consent before it collected, captured, received, or otherwise  
23 obtained, stored, and/or used Plaintiff's and Class members' biometric identifiers or  
24 biometric information. In the alternative, Defendants acted negligently by failing  
25 ensure that TikTok App users were informed of and consented to Defendants'  
26 collecting, capturing, receiving, otherwise obtaining, storing, and/or using their  
27 biometric information and biometric identifiers.

65. Individually and on behalf of the Class, Plaintiff seeks: (1) injunctive and equitable relief as is necessary to protect the interests of Plaintiff and Class members by requiring Defendants to comply with BIPA's requirements for the collection, capture, storage, and use of biometric identifiers and biometric information; (2) statutory damages of \$5,000 for each intentional and reckless violation of BIPA pursuant to 740 ILCS 14/20(2) or, alternatively, statutory damages of \$1,000 for each negligent violation pursuant to 740 ILCS 14/20(1); and (3) reasonable attorneys' fees and costs and other litigation expenses pursuant to 740 ILCS 14/20(3).

## SECOND CAUSE OF ACTION

## Violations of 740 ILCS 14/15(a)

66. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

67. Defendants are “private entities” as defined by 740 ILCS 14/10 because Defendant TikTok is a California corporation and Defendant ByteDance, Inc. is a Delaware corporation.

68. Plaintiff and Class members are individuals who had their biometric identifiers or biometric information collected, captured, received, obtained, stored, and/or used by Defendants through the TikTok App.

69. BIPA requires that private entities in possession of biometric data develop a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying biometric identifiers and biometric information when the initial purpose for collecting or obtaining such identifiers or information has been satisfied or within 3 years of the individual's last interaction with the private entity, whichever occurs first. Pursuant to BIPA, such companies must adhere to that retention schedule and actually delete the biometric information. See 740 ILCS § 14/15(a).

1           70. Defendants possess the biometric identifiers or information of Plaintiff  
2 and the other Class members but do not publicly provide a retention schedule or  
3 guidelines for permanently destroying such identifiers or information, as required by  
4 740 ILCS 2313/15(a).

5           71. Upon information and belief, Defendants do not maintain retention  
6 schedules and guidelines for permanently destroying Plaintiff's and the other Class  
7 members' biometric data. Each Defendant has failed or does not intend to destroy  
8 Plaintiff's and the other Class members' biometric data when the initial purpose for  
9 collecting or obtaining such data has been satisfied or within three years of the  
10 individual's last interaction with the company.

11           72. Upon information and belief, Defendants' BIPA violations were  
12 intentional and reckless because Defendants deliberately failed to publicly disclose  
13 a retention schedule or guidelines for permanently destroying biometric identifiers  
14 or biometric information, as required by 740 ILCS 2313/15(a).

15           73. Alternatively, Defendants' BIPA violations were negligent because  
16 Defendants breached the applicable standard of care by failing to publicly provide a  
17 retention schedule or guidelines for permanently destroying such identifiers or  
18 information, as required by 740 ILCS 2314/15(a).

19           74. Individually and on behalf of the Class, Plaintiff seeks: (1) injunctive  
20 and equitable relief as is necessary to protect the interests of Plaintiff and Class  
21 members by requiring Defendants to comply with BIPA's requirements for the  
22 collection, capture, storage, and use of biometric identifiers and biometric  
23 information; (2) statutory damages of \$5,000 for each intentional and reckless  
24 violation of BIPA pursuant to 740 ILSC 14/20(2) or, alternatively, statutory damages  
25 of \$1,000 for each negligent violation pursuant to 740 ILCS 14/20(1); and (3)  
26 reasonable attorneys' fees and costs and other litigation expenses pursuant to 740  
27 ILCS 14/20(3).  
28



**THIRD CAUSE OF ACTION**

**Violations of 740 ILCS 14/15(d)**

75. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

76. Defendants are “private entities” as defined by 740 ILCS 14/10 because Defendant TikTok is a California corporation and Defendant ByteDance, Inc. is a Delaware corporation.

77. Plaintiff and Class members are individuals who had their biometric identifiers or biometric information collected, captured, received, obtained, stored, and/or used by Defendants through the TikTok App.

78. BIPA prohibits private entities from disclosing, redisclosing, or otherwise disseminating a person’s or a customer’s biometric identifiers or biometric information without first obtaining consent for that disclosure. 740 ILCS 14/15(d)(1).

79. Defendants disclosed, redisclosed, or otherwise disseminated Plaintiff and Class members’ biometric identifiers and biometric information without the required consent pursuant to 740 ILCS 14/15(d)(1).

80. By disclosing, redisclosing, or otherwise disseminating Plaintiff’s and other Class members’ biometric identifiers and biometric information, Defendants violated Plaintiff’s and Class members’ right to maintain control over their biometric identifiers and/or biometric information as codified in BIPA. 740 ILCS 14/11, et seq.

81. Upon information and belief, Defendants’ BIPA violations were intentional and reckless because Defendants deliberately disseminated Plaintiff’s and Class members’ biometric identifiers and biometric information without first obtaining the required consent.



82. Alternatively, Defendants' BIPA violations were negligent because Defendants negligently disseminated Plaintiff's and Class members' biometric identifiers and biometric information without first obtaining the required consent.

83. Individually and on behalf of the Class, Plaintiff seeks: (1) injunctive and equitable relief as is necessary to protect the interests of Plaintiff and Class members by requiring Defendants to comply with BIPA's requirements for the collection, capture, storage, and use of biometric identifiers and biometric information; (2) statutory damages of \$5,000 for each intentional and reckless violation of BIPA pursuant to 740 ILCS 14/20(2) or, alternatively, statutory damages of \$1,000 for each negligent violation pursuant to 740 ILCS 14/20(1); and (3) reasonable attorneys' fees and costs and other litigation expenses pursuant to 740 ILCS 14/20(3).

## **VI. PRAYER FOR RELIEF**

84. WHEREFORE, Plaintiff, individually and on behalf of all other similarly situated, requests that the Court enter the following judgment against Defendants:

- a. That this action and the proposed class be certified and maintained as a class action, appointing Plaintiff as a proper representative of the Class herein, and appointing the attorneys and law firm representing Plaintiff as counsel for the Class;
- b. Enter judgment against Defendants on Plaintiff's and Class members' asserted causes of action;
- c. Award statutory damages of \$5,000 for each intentional and reckless violation of BIPA pursuant to 740 ILCS 14/20(2), award statutory damages of \$1,000 for each negligent violation of BIPA pursuant to 740 ILCS 14/20(1);
- d. Award injunctive and other equitable relief as is necessary to protect the interests of the Class, including, *inter alia*, an order requiring TikTok to collect, store, and use biometric identifiers or biometric information in compliance with BIPA;
- e. Award Plaintiff and the Class their reasonable litigation expenses and attorneys' fees;
- f. Pre-judgment and post-judgment interest as provided by law; and

1           g.     Such additional and equitable relief that this Court may deem just  
2           and proper.

3                               **DEMAND FOR JURY TRIAL**

4           Plaintiff hereby demands a trial by jury of all issues so triable pursuant to  
5     Federal Rule of Civil Procedure 38(b).

6  
7     Dated: June 5, 2010

Respectfully submitted,

8                     SUSMAN GODFREY L.L.P.

9  
10                    /s/ Steven Sklaver

Steven Sklaver

11                   Kalpana Srinivasan

Michael Gervais

12                   *Attorneys for Plaintiff and Proposed Class*  
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