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12  
13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 (OAKLAND DIVISION)

16 BYTEDANCE INC., TIKTOK INC., AND  
17 TIKTOK PTE. LTD.

18 Plaintiffs

19 v.

20 TRILLER, INC.

21 Defendant.  
22

Case No. 4:20-cv-7572-JSW

**JOINT NOTICE REGARDING  
TRANSFER OF RELATED CASE  
BETWEEN THE PARTIES FROM W.D.  
TEX. TO THE NORTHERN DISTRICT,  
PER DKT. NOS. 44 & 47**

1 Plaintiffs ByteDance Inc., TikTok Inc., and TikTok Pte. Ltd (“Plaintiffs” or “TikTok”) and  
2 Defendant Triller, Inc. (“Defendant” or “Triller”) hereby submit this joint notice pursuant to the  
3 Court’s prior orders (Dkt. Nos. 44 & 47) directing the submission of a report following Judge  
4 Albright’s ruling on TikTok’s motion to transfer another case between the parties (6:20-cv-693-  
5 ADA) from the Western District of Texas to this District.

6 Judge Albright granted TikTok’s motion to transfer on July 7, 2021 (6:20-cv-693-ADA,  
7 Dkt. No. 85), and that other case has been transferred to this District (3:21-cv-5300-JSC). Given  
8 the overlapping subject matter between the two cases pending in this District, the parties agree that  
9 the transferred case (3:21-cv-5300-JSC) should be related to the above-captioned matter, and the  
10 most efficient path forward is for this Court to oversee both cases. Triller believes that the caption  
11 should reflect Triller’s status as a plaintiff, as the Texas case was filed before the action filed in this  
12 District. TikTok believes it is unnecessary and premature to address (re)alignment of the parties at  
13 this stage. The parties intend to decline the magistrate and file related case papers shortly. The  
14 parties therefore request that the Court set a CMC to discuss scheduling and next steps. The parties’  
15 separate views as to the appropriate next steps are as follows:

16 **TikTok’s position:** The PTAB instituted IPR proceedings on Triller’s sole asserted patent in  
17 the transferred case in April 2021, with a Final Written Decision due no later than the end of April  
18 2022. TikTok believes the Court should stay all proceedings regarding Triller’s asserted patent  
19 pending the resolution of the IPR proceedings, to conserve resources. This would include all  
20 proceedings in the transferred case, and TikTok’s pending declaratory judgment claim in its case.  
21 Triller indicates below it agrees with this approach.

22 However, there is no reason to delay any further the proceedings on TikTok’s three asserted  
23 patents in the above-captioned matter, as TikTok first asserted its patent infringement claims against  
24 Triller over eight months ago (on November 11, 2020) and Triller has not filed any IPRs  
25 challenging TikTok’s patents. In particular, there is no basis for staying TikTok’s case due to  
26 Triller’s Section 101 motion, which was never fully briefed. (*See* Dkt. No. 47.) For reasons  
27 TikTok can address in more detail at the Court’s convenience if necessary, Triller’s motion was  
28 (and is) premature given that no discovery or claim construction has occurred. And Triller’s

1 Section 101 arguments against TikTok's patents apply with more force to Triller's own patent, so  
2 the Court should address any Section 101 issues in the case later, for all patents, after the pending  
3 IPR against Triller's patent is resolved and any IPRs against TikTok's patents are filed and  
4 resolved.

5 **Triller's position:** Triller does not oppose a stay of proceedings related to Triller's claims  
6 for patent infringement in the transferred case and TikTok's pending declaratory judgment claims  
7 related to that same patent pending resolution of the IPR proceedings filed by the TikTok parties.  
8 Triller believes that the remaining claims of the Amended Complaint (the Second, Third and Fourth  
9 Claims for Relief) should be stayed. The Second, Third and Fourth Claims for Relief of the  
10 Amended Complaint assert patents the TikTok parties acquired for purposes of this litigation  
11 against Triller. Triller has filed a Motion for Judgment on the Pleadings as to the Second, Third and  
12 Fourth Claim for Relief of the Amended Complaint (ECF No. 46), seeking judgment that the  
13 patents asserted by TikTok are invalid under 35 U.S.C. § 101. In order to conserve judicial  
14 resources, Triller suggests that all proceedings related to those claims be stayed until the Court has  
15 resolved the pending motion for judgment on the pleadings. If that motion is resolved favorably to  
16 Triller, all matters will be effectively stayed. TikTok's argument that Triller's § 101 motion should  
17 not be addressed now and that proceedings related to TikTok's asserted patents should not be stayed  
18 are incorrect. The fact that Triller's § 101 motion has not been fully briefed is easily resolved as  
19 that briefing can now proceed. There is no reason briefing and resolution of the motion cannot or  
20 should not be resolved expeditiously. *Alice* motions are most often considered at the outset of  
21 proceedings. Further, TikTok's assertion that the Court should delay consideration of all § 101  
22 motions (pending and future) until resolution of all IPRs (pending and future) merely serves to  
23 confirm that this entire matter should be stayed, as proposed by Triller. If Triller's § 101 motion is  
24 not granted or the case is not stayed, Triller intends to file one or more IPRs challenging TikTok's  
25 patents, and will seek a stay based on the IPR proceedings. Accordingly, a complete stay of all  
26 proceedings until resolution by the PTAB, and/or the issuance of a ruling on Triller's Motion to  
27 Dismiss, is warranted.

28

1 Dated:

Dated:

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3  
4 /s/ Michael R. Headley

/s/ Brent P. Lorimer

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TRILLER, INC.

8 I hereby attest under penalty of perjury that concurrence in the filing of this document has  
9 been obtained from counsel for Defendant.

10 Dated:

FISH & RICHARDSON P.C.

11  
12 By: /s/Michael R. Headley

13 Michael R. Headley

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