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11 Attorneys for Plaintiffs
BYTEDANCE INC., TIKTOK INC., and TIKTOK PTE. LTD.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

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

Case No. 4:20-cv-07572-JSW

Plaintiffs,

PLAINTIFFS' DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS

10 v.

20 | TRILLER, INC.,

REDACTED

21 | Defendant.

Pursuant to Patent Local Rules 3-1 and 3-2, Plaintiffs TikTok Inc. and TikTok Pte. Ltd. (collectively “TikTok” or “Plaintiffs”) provide Defendant Triller, Inc. (“Triller”) with the following preliminary disclosure of asserted claims and infringement contentions. Given the limited information Triller has disclosed thus far through discovery, TikTok’s disclosure is based on public information relating to Triller’s products, including Triller’s software application for the

1 iOS operating system and Triller's software application for the Android operating system
2 (collectively, "the Accused Products").

3 All sources identified in TikTok's disclosure of asserted claims and infringement
4 contentions (as well as the attached claim charts) are exemplary. TikTok reserves the right to
5 supplement these disclosures with additional evidence because Triller has not yet provided
6 discovery regarding its products, the discovery period has not yet ended, and the Court has not yet
7 construed any claim terms. TikTok also reserves the right to identify other Accused Products that
8 are made, used, sold, offered for sale, and/or imported into the United States by Triller, as
9 appropriate.

10 **DISCLOSURES UNDER RULE 3-1**

11 **(A) Asserted Claims (Patent L.R. 3-1(a))**

12 Based on information obtained to date, TikTok asserts that Triller has infringed and/or is
13 infringing the following claims of the following United States patents (collectively, "the Asserted
14 Claims" of "the Asserted Patents"):

- 15 • U.S. Patent No. 9,648,132 ("the '132 patent") claims 1, 2, 3, 6, 22, 26, 27, and 31
16 • U.S. Patent No. 9,992,322 ("the '322 patent") claims 30, 31, 32, 35, 51, 55, and 56
17 • U.S. Patent No. 9,294,430 ("the '430 patent") claims 1, 19, 23, 24, and 28

18 **(B) Accused Products (Patent L.R. 3-1(b))**

19 Based on information obtained to date, TikTok asserts that Triller has infringed and/or is
20 infringing the asserted claims with its software application for the iOS operating system and
21 Triller's software application for the Android operating system (collectively, "the Accused
22 Products"), commonly referred to as the Triller app.

23 **(C) Claim Charts (Patent L.R. 3-1(c))**

24 The claim charts labeled Exhibits F1-F3 identify specifically the element-by-element
25 analyses of Triller's infringement of the Asserted Claims of TikTok's Asserted Patents.

26 **(D) Indirect Infringement (Patent L.R. 3-1(d))**

27 Triller both induces and contributes to the infringement of others through the marketing
28 and distribution of the Accused Products, i.e. the Triller app. In particular, Triller has induced and

1 contributed to infringement of the Asserted Claims by encouraging and instructing users of the
2 Triller app to perform activities that infringe the patents-in-suit with full knowledge of the patents
3 and their infringement, including using the Accused Products in the U.S., and Triller has so
4 encouraged and instructed with the intent to cause others to perform those acts. These acts were
5 undertaken, additionally, knowing that the accused functionality of the products is default
6 functionality and that the Triller app therefore has no substantial non-infringing uses. For the
7 accused products, Triller has made available to customers in the United States materials including
8 website pages, videos, and other promotional materials instructing customers on how to use the
9 products in an infringing manner. Providing such materials to U.S. based customers with the
10 specific intent to induce those customers to infringe has thereby induced infringement of the
11 Asserted Claims; and with knowledge that the Triller app has no substantial non-infringing uses,
12 their acts additionally contribute to infringement by others. Additional detail regarding specific
13 acts of direct infringement, including the volume of infringement and details of Triller's
14 inducement and contributory infringement, will be the subject of discovery that TikTok has sought
15 (and will continue to seek) from Triller and will seek from additional third parties.

16 **(E) Literal Infringement and Doctrine of Equivalents (Patent L.R. 3-1(e))**

17 Based on the information presently available and on information and belief, each limitation
18 of each of the Asserted Claims of the Asserted Patents is literally met by the Accused Products as
19 described in the accompanying Exhibits F1 – F3.

20 To the extent Triller argues that any claim limitations are not literally satisfied, TikTok
21 may supplement these contentions to show that those limitations are also met under the doctrine of
22 equivalents because the differences between the claim limitation and the corresponding element in
23 the Accused Products are insubstantial or perform substantially the same function as the claimed
24 limitation, and do so in substantially the same way to create substantially the same result. TikTok
25 also reserves the right to allege that certain claim limitations are satisfied under the doctrine of
26 equivalents once the Court construes any disputed claim terms.

(F) Priority Date (Patent L.R. 3-1(f))

As indicated on the face of TikTok's Asserted Patents, all three of the patents claim priority as of May 5, 2006, based on the filing of provisional patent applications in Great Britain.

(G) Embodiments of the Asserted Claims (Patent L.R. 3-1(g))

At least the following Asserted Claims of the Asserted Patents are embodied in the MusicStation software product and Plaintiffs' own TikTok app when executed on a mobile device running the iOS or Android operating systems:

REDACTED

(H) Infringement Timing (Patent L.R. 3-1(h))

Based on public information, TikTok believes that Triller is and has been infringing each of the Asserted Claims of the Asserted Patents since the release of the Triller app in 2015, that damages began to accrue as of the launch of the Triller app, and that TikTok is entitled to damages for Triller's use of the patented technology from the initial launch of the Triller app through the life of the patents-in-suit.

(I) Willful Infringement (Patent L.R. 3-1(i))

TikTok alleges that Triller willfully infringes all three of the Asserted Patents based on Triller's knowledge of the patents since at least November 11, 2020, based on Triller's continued infringement of the Asserted Patents with the Triller app with full knowledge of its infringement since that time.

DISCLOSURES UNDER RULE 3-2

(A) Documents Evidencing Disclosures/Offers to Sell (Patent L.R. 3-2(a))

There were no offers to sell, public disclosures, or sales of the claimed inventions prior to the date of the application for the Asserted Patents.

(B) Documents Evidencing Conception, etc. (Patent L.R. 3-2(b))

TikTok has produced documents evidencing the conception, reduction to practice, design, and development of each claimed invention at BDTT_TRIL_CA_0000001-6561.

1 **(C) File Histories (Patent L.R. 3-2(c))**

2 TikTok has produced the file histories for each of the patents-in-suit at
3 BDTT_TRIL_CA_0000001 - BDTT_TRIL_CA_0006561.

4 **(D) Ownership (Patent L.R. 3-2(d))**

5 TikTok has produced documents that show ownership of the Asserted Patents at
6 BDTT_TRIL_CA_0006570 - BDTT_TRIL_CA_0006580.

7 **(E) Products Practicing the Claimed Inventions (Patent L.R. 3-2(e))**

8 TikTok has produced documents showing the operation of the embodying MusicStation
9 software at BDTT_TRIL_CA_0000001-6561. Additional documents sufficient to show the
10 operation of the TikTok app practicing claims of the Asserted Patents are available for inspection
11 upon reasonable advance notice at TikTok's Transparency and Accountability Center.

12 **(F) Agreements Transferring an Interest in the Asserted Patents (Patent L.R. 3-2(f))**

13 TikTok has produced relevant agreements and licenses at BDTT_TRIL_CA_0006562 -
14 BDTT_TRIL_CA_0006580.

15 **(G) All Agreements Supporting Damages (Patent L.R. 3-2(g)-(h))**

16 TikTok is not presently aware of any licenses or agreements that are comparable to a
17 license that would result from a hypothetical reasonable royalty negotiation in this case.

18 **(H) Documents Regarding Embodying Instrumentalities (Patent L.R. 3-2(i))**

19 TikTok is not making any claims regarding marking or Lost Profits in this case.

20 **(I) All Documents Concerning Any F/RAND Commitment (Patent L.R. 3-2(j))**

21 TikTok does not contend that any of the Asserted Patents is subject to a FRAND
22 commitment or agreement.

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