This is the 1st affidavit of K McLaren
in this proceeding and was made on
25 /OCT/2021

No. S-209073
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between

LISA THOMAS

PLAINTIFF

and

TIKTOK INC and TIKTOK PTE LTD

DEFENDANTS

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

AFFIDAVIT #1 OF KEVIN McLAREN

I, Kevin McLaren, barrister and solicitor, of 2233 Columbia St #400, Vancouver, British Columbia, AFFIRM THAT:

1. I am a lawyer for the plaintiff and proposed class members in *A.C. an infant by her Litigation Guardian Robert Andrew Cronk v. musical.ly Inc. et al*, SCBC Vancouver Registry No. VLC-S-S-193384, a companion case to this action and as such have personal knowledge of the facts and matters deposed to in this affidavit. Where facts are not within my personal knowledge, I have stated the source of the information, and I believe that information to be true. I make this affidavit in support of the application for consent certification, followed by settlement and fee approval.

Conduct of these Class Proceeding

2. There are two actions commenced in British Columbia that relate to the privacy interests of users of the TikTok app and its predecessor, musical.ly:

   a. *A.C. an infant by her Litigation Guardian Robert Andrew Cronk v. musical.ly Inc.*, SCBC Vancouver Registry No. VLC-S-S-193384 [*Cronk*]; and

   b. *Thomas v. ByteDance Ltd. et al.*, SCBC Vancouver Registry No. VLC-S-S-209073 [*Thomas*].

3. I am counsel to the plaintiff in the *Cronk* proceeding. I am informed by Saro J. Turner, counsel to the plaintiff in *Thomas*, about the steps taken in that proceeding.

4. A copy of the Settlement Agreement between the parties in the *Cronk* and *Thomas* proceedings is attached as Exhibit "A" to my affidavit.

TikTok and musical.ly

5. Beginning in about 2014, musical.ly Inc. made available an app known formerly as "musical.ly." In 2017, TikTok made available an app known as TikTok. In 2017, ByteDance Ltd acquired musical.ly Inc, which changed its name to TikTok Inc. Over the course of 2018, the musical.ly app's back-end operations and technology were phased out and, in August 2018, the musical.ly app's users were combined with the users of the TikTok app. At that time, the TikTok app continued to be distributed in Canada and the musical.ly app ceased to be available.

6. Essentially, the TikTok app is used on smartphones and other devices to permit users to, among other things, make short videos and share them with other users on the platform.

The *Cronk* Action

7. *Cronk* was filed on March 3, 2019. In brief, *Cronk* alleges that the TikTok app collected private information from underage users without proper consent, in breach of minors' privacy. The claim seeks damages under the *Privacy Act*, RSBC 1996, c 373, the *Infants Act*, RSBC 1996, c 223, and at common law.

8. Service was effected on the Defendant musical.ly Inc. on June 28, 2019 in the United States.

9. As a result of discussions with defence counsel, and a review of jurisdictional and other evidence, the action was discontinued against musical.ly and ByteDance Technology Co. Ltd., domiciled in the Cayman Islands and China, respectively.

10. The plaintiff applied for the appointment of a case management judge on October 1, 2019. The Honourable Justice Choi was appointed case management judge on November 13, 2019. The initial judicial management conference was adjourned by consent, and a JMC was scheduled for January 10, 2020. The parties attended that JMC before Justice Choi and made plans to try and move the case forward by agreement between counsel.

11. The plaintiff delivered the Notice of Application for certification and all supporting evidence on June 10, 2020.

12. The plaintiff's certification record consisted of an affidavit from the litigation guardian for the plaintiff (Mr. Cronk), two expert reports, and a lengthy legal assistant affidavit compiling the results of counsel's investigations into the Defendant's activities.

13. The plaintiff delivered an expert affidavit from Dr Julia Rubin, a professor of computer science at the University of British Columbia. Dr Rubin provided a certification affidavit (i.e. not an affidavit about the merits) addressing basic concepts concerning apps and app data collection, age verification, and the standard operation of the TikTok app for the purposes of commonality.

14. The plaintiff also delivered an expert affidavit from Dr. Jeffrey Boase, a sociologist at the University of Toronto, on smartphone app use in Canada and the privacy implications for minors, as well as a view as to the potential number of class members.

15. Discussions then ensued between counsel, without the involvement of the Court, for how best to manage the certification process. As a result of those discussions, a consent schedule was reached. From the plaintiff's perspective, the consent schedule avoided any preliminary disputes about jurisdiction or arbitration, which would otherwise have delayed the case significantly.

16. In accordance with the schedule for this action, the Defendant was to deliver its

certification response and supporting affidavit by November 30, 2020. The certification response was delivered on that date, and the parties agreed to an extension to file the supporting affidavit to the end of January 2021.

17. In the interim, the plaintiff delivered a demand under section 5 of the *Class Proceedings Act*, as is mine and Mr. Good's practice in these matters. That demand sought what we believed to be key evidence from the Defendant that was not available to the plaintiff from public sources.

18. The Defendant's evidence was delivered on January 29, 2021. This evidence informed both the certification process and the settlement reached between the parties. Included in the Affidavit of Daniel Habashi, General Manager of TikTok in Canada, was (i) key evidence about class size (by age), (ii) the privacy policies at the materials times, and (iii) evidence requested under section 5, all of which helped inform the parties' views of the case. Much of this information was not available to the plaintiff from any public source.

19. The plaintiff delivered a reply affidavit and written argument in support of certification on March 12, 2021, under the revised schedule.

20. As a result of the preparation and exchange of application materials, it became apparent that certification and liability (if the case went forward to trial) would turn on a number of factors, including: (i) the interplay between the *Infants Act* and the *Privacy Act*; (ii) the contractual terms and conditions between the Defendant and the class members; (iii) jurisdictional issues; and (iv) whether any of the claims can be adjudicated on a class-wide basis (or whether they must proceed individually).

21. Both parties were faced with considerable uncertainty about the prospects of the claim on its merits. Whichever party was unsuccessful at certification would likely have appealed the result under the *Class Proceedings Act*, section 36. Any trial of the case was likely many years away.

22. From the outset, I have monitored the progress of related investigations and litigation relating to similar subjects in the United States. In particular, in 2019, the United States Federal Trade Commission investigated and fined musical.ly for alleged breaches of the United States *Children's Online Privacy Protection Act*. Follow-on litigation was initiated in the United States, including specifically on behalf of underage users (under age 13) in *T.K. v. ByteDance Technology*

Co Ltd et al, U.S. District Court (Northern District of Illinois, Eastern Division), Case 1:19-cv-07915. In 2020, other privacy claims against TikTok were consolidated by the Judicial Panel on Multi-District Litigation into *Re: TikTok, Inc., Consumer Privacy Litigation*, Case 1:20-cv-04699 (MDL No 2948) (*"Re TikTok MDL"*).

23. Two significant events took place in the United States around the time of the delivery of the plaintiff's certification materials in *Cronk*:

a. On August 14, 2020, President Trump signed an executive order imposing economic sanctions or conditions on TikTok that would effectively require it to sell its U.S. assets to an American company, on national security grounds. From our perspective, this was a major disruption that might result in the removal of the TikTok app from use in North America.

b. A settlement was announced in *T.K.* regarding the underage user claims. A subsequent settlement was announced in *Re TikTok MDL*. I return to the relevance of these settlements below. A copy of the settlement agreement in *T.K.* is attached as Exhibit "**B**" to my affidavit.

24. In early March 2021, concurrent with the preparation of the plaintiff's reply evidence and argument, we initiated a posture of dialogue with the Defendant regarding the potential for a negotiated resolution.

25. I was aware of the *Thomas* action filed by Slater Vecchio LLP. I reached out to Saro Turner of that firm to discuss the possibility of seeking a global resolution of litigation against TikTok in Canada, as I believed this would have the best chance of success. The *Thomas* action was receptive and we subsequently coordinated our negotiating position with the Defendants.

26. The parties discussed potential mediators and identified Mr. Michael Erdle as an experienced mediator with an appropriate technical background. Mr. Erdle was retained, and a process for the mediation agreed. Attached to this affidavit and marked as Exhibit "**C**" is a copy of Mr. Erdle's C.V.

27. To facilitate the mediation, the parties agreed to a stay of the *Cronk* proceeding pending

further developments. That consent order was entered July 5, 2021, a copy of which is attached as Exhibit "**D**" to my affidavit.

28. The parties exchanged mediation briefs in June and July 2021, leading up to a two-day mediation set for July 13th and 14th.

29. On the first day of the mediation, the parties worked collaboratively with the assistance of the mediator, client representatives, and U.S. counsel, over Zoom. After approximately 10 hours, the parties reached agreement on key terms. A confidential term sheet was signed.

30. Following the agreement, the plaintiffs in *Cronk* and *Thomas* prepared comprehensive settlement materials. Those materials were exchanged with the Defendant's counsel, and subsequently reduced to a full written agreement (Exhibit "**A**"). I return to the settlement terms below.

The *Thomas* Action

31. The details of the *Thomas* proceeding are set out in the affidavit of Saro Turner.

Terms of Settlement

32. As noted above, a copy of the settlement agreement is attached as Exhibit "**A**" to my affidavit.

33. The proposed settlement has the following key features, which are favourable to the class overall:

a. The settlement is for the amount of CAD $2 million, plus $26,629 in costs reimbursement, all inclusive.

b. In exchange for the payment of the settlement amount, the Defendants will consent to certification and receive a release with no admission of liability, upon court approval. The settlement will resolve all outstanding litigation against TikTok about privacy in Canada.

c. After payment of fees and expenses, the funds will be distributed *cy pres* to the Law

Foundation of British Columbia and certain other public-interest organisations, as contemplated by the *Class Proceedings Act*, section 36.2.

Rationale for Settlement

34. The settlement is premised on the following:

a. According to the data provided by TikTok in its certification affidavit in *Cronk*, there were 9,007,240 registered monthly TikTok users in Canada as of January 15, 2021. Of those, 1,355,612 were between the ages of 13 and 18.

b. The *T.K.* settlement in the U.S. was on behalf of users under age 13, because age 13 is the triggering age under *COPPA* (i.e. users over 13 are not affected by that law), and the primary allegation in *T.K.* was that, in violating *COPPA*, TikTok violated the expectation of privacy of these younger users. The plaintiffs in *T.K.* also asserted claims for violation of a U.S. statute titled the *Video Privacy Protection Act* ("***VPPA***") pursuant to which plaintiffs claimed liquidated (statutory) damages of USD $2,500 per person. The final approval hearing for the T.K. settlement was held on August 31, 2021, and the approval order is expected imminently.

c. The per capita value under the *T.K.* settlement was estimated to be USD $0.18 or CAD $0.225. The settlement amount was justified by citation to numerous other class settlements in the U.S. involving alleged violations of U.S. privacy laws with similar liquidated damages, where the per capita value of the settlements was in the USD $0.03 – $0.18 range.

d. Although the per capita value of the settlement in *Re TikTok MDL* was higher than in *T.K.*, the *Re TikTok MDL* settlement included claims for liquidated (statutory) damages under the *Illinois Biometric Information Privacy Act* ("***BIPA***") that would have amounted to an additional USD $5,000 per person.

e. There is no equivalent legislation in Canada to the VPPA and BIPA claims and liquidated damages asserted in *T.K.* and *Re TikTok MDL*, and, as described below, damages are substantially unsettled in breach of privacy claims in this country.

f. The Canadian settlement is based on the *T.K.* estimated value per class member multiplied by 9,007,240 users or $2,026,629.

g. Accordingly, the Canadian class is receiving the same rate per capita from *T.K.* on account of all users (and not just underage users). The Canadian settlement amount is also modelled on the higher American liquidated damages amounts, even though there is no equivalent entitlement in Canada.

35. In the opinion of counsel for the plaintiff in each of *Cronk* and *Thomas*, this settlement is fair, because it falls within the range of generally similar settlements in Canada and the US, and appropriately reflects the relative strengths and weaknesses of the plaintiff's claims, for the following reasons. It is also consistent with the jurisprudence that provides that settlements are valued based on the "perceived severity of the alleged breach in terms of impact on class members." (*Chartrand v Google LLC*, 2021 BCSC 7, para 38)

36. The settlement is on the spectrum of comparable settlements in 'exploitation' privacy cases previously approved in Canada and the United States:

Canadian Cases

Case	**Class size**	**Settlement Amounts / Distribution**	
Elkoby c Google inc., 2018 QCCS 2623	~12 million	*Cy-pres*	$1,000,000
Chartrand v Google, 2021 BCSC 7	~12 million	*Cy-pres*	$1,000,000
➔ *Cronk* and *Thomas*	~9 million	*Cy-pres*	$2,000,000
Leonard v. The Manufacturers Life Insurance Company, 2020 BCSC 1840	650,000 to 6.6 million	*Cy-pres*	$4,250,000

American Cases

Case	Claim	Settlement Amount	Class definition (class size, if available)
Amazon[1]	Circumventing users' privacy settings	$1.9-million USD	
Google[2]	Email Scanning	$2.2-million USD	California residents (CIPA) United States residents (ECPA)
Twitter[3]	Unauthorised sharing of user data	$2.7-million USD	California residents
Yahoo[4]	Email scanning	$4-million USD	California residents (CIPA) United States residents (SCA)
Twitter, Instagram, Yelp[5]	Improperly accessing users' iOS address books	$5.3-million USD	United States residents (7mm)
Google[6]	Unauthorised sharing of users' search queries	$8.5-million USD	United States residents (129mm)

37. In plaintiffs' counsels' view, there was considerable litigation risk on the merits, although *Thomas* and *Cronk* would likely have been certified, at least in part.

38. I am counsel in a number of settled or putative privacy class actions, as is Mr. Turner. In our view, there is major uncertainty about the certification prospects of these cases that did not previously exist, and even greater uncertainty about the merits. Relatively few 'exploitation' type privacy cases have been certified to date, the most prominent being *Douez v Facebook*, 2014 BCSC

[1] *Nicole Del Vecchio v. Amazon.com, Inc.*, Case No. C11-366RSL (WD Washington).
[2] *Daniel Matera v. Google Inc.*, Case No. 5:15-cv-04062 (ND California).
[3] *Jane Doe v. Twitter Inc., et al.*, Case No. CGC-10-503630, in the Superior Court of the State of California, County of San Francisco.
[4] *In re: Yahoo Mail Litigation*, Case No. 5:13-cv-04980 (ND California).
[5] *Opperman, et al. v. Kong Technologies Inc.*, Case No. 13-cv-00453 (ND California).
[6] *In Re Google Referrer Header Privacy Litigation*, Case No. 15-15858 (9th Circuit) remanded by U.S. Supreme Court on jurisdictional grounds: *Frank v Gaos*, 586 U.S., 139 S. Ct. 1041 (2019).

953 aff'd 2018 BCSC 186 (although it is still ongoing, filed in March 2012). Others, including a series of three cases in B.C. against Google, are mired in procedural challenges (*Kett v Google*; *Reid v Google*; *Sibble v Google*, subject to carriage applications and stay applications by Google, on reserve before Justice Tucker).

39. A notable number of privacy claims have recently been unsuccessful in obtaining certification, such as *Kish v Facebook*, 2021 SKQB 198, *Simpson v Facebook*, 2021 ONSC 968, *Beaulieu c. Facebook inc.*, 2021 QCCS 3206, *Lehouillier-Dumas c. Facebook inc.*, 2021 QCCS 2074, and *Setoguchi v Uber*, 2021 ABQB 18. Latterly, at trial, *Lamoureux c. Organisme canadien de réglementation du commerce des valeurs mobilières (OCRCVM)*, 2021 QCCS 1093 was entirely unsuccessful. This apparent trend is concerning to plaintiffs' counsel and put certification of this case at risk.

40. Similarly, there have been no trials of privacy class actions in Canada, and there is a question as to the possibility of substantive success, in particular in establishing harm arising from such claims.

41. The question of whether the *Infants Act* permits these types of claims, and whether they can be adjudicated on a class-wide basis, has never been addressed by a Canadian court. In addition, there is recent British Columbia jurisprudence that points towards an individualised assessment of infant capacity (see, e.g., *A.B. v. C.D.*, 2020 BCCA 11 and *G.M.S. v Dr. Z*, 2021 BCSC 1915), which is concerning to plaintiffs' counsel for certification. There is unhelpful jurisprudence in the United States on these issues that would likely have been raised against these submissions.

42. In addition, the defendants in *Thomas* defended in part on grounds that the user agreement was based in California and Singapore law, which complicated matters significantly.

43. Even if the case had been certified and succeeded at trial, there was considerable risk of non-collection of any eventual judgment. TikTok does not have any apparent assets in Canada that counsel have been able to identify. The defendants in the two actions are headquartered in Singapore and the United States, and therefore outside the judgment enforcement jurisdiction of this Court. This risk is in addition to the risk that TikTok simply stops operating in North America,

and therefore no longer exists as a going concern.

44. Even if the litigation could end in favour of the Class Members, litigating this matter to its conclusion would likely add several years to this proceeding. There was no trial date set and – in view of the length of the certification hearing date, a reserve period, an appeal, followed by discovery – it was unlikely to go ahead before mid-2024 at the earliest. Even if the Plaintiff were to succeed at trial, any judgment in the Class's favour would almost certainly be followed by an appeal, especially given the novelty of the claim, and potentially an application for leave to appeal to the Supreme Court of Canada.

45. The cy-pres recipients have been selected to achieve the appropriate "indirect benefit" contemplated by these types of awards.

46. First, the Law Foundation of British Columbia (50% share) is an obligatory recipient because of the operation of the *Class Proceedings Act*, ss 36.1 and 36.2. It has extensive experience in funding and supporting public initiatives, including those involving children and the law. It is anticipated that an affidavit will be delivered from the Chair of the Board or a senior member of that organisation in support of the settlement at the approval hearing, as is the usual practice in these types of cases. It is the view of plaintiffs' counsel that the Settlement Agreement cannot fetter the discretion of the Law Foundation in how it allocates any funds received, so the intended use is expressed in terms of a preference.

47. Second, the other three proposed cy-pres beneficiaries are:

a. **Canadian Centre for Child Protection** (16.66% share). This is a registered Canadian charity that provides support and programs to assist children in staying safe, whether online or offline. The Centre's goal is to reduce the sexual abuse and exploitation of children, assist in the location of missing children, and prevent child victimization through a number of programs, services, and resources for Canadian families, educators, child-serving organizations, law enforcement, and other parties. They operate a number of important initiatives including cybertip!ca (a tipline for reporting online child exploitation), missingkids.ca (a missing children's resource), kids in the know (a national safety education program), and commit to kids (a preventive program

to help child-serving organizations prevent child abuse).

b. **Kids Help Phone** (16.67% share). This is a registered Canadian charity that operates counselling centres and communing engagement initiatives across Canada to protect and support children's mental health.

c. **Boys and Girls Clubs Canada** (16.67% share). This is a registered Canadian charity that works to provide safe, supporting places for children and youth.

48. Because the principal focus of this lawsuit was on the privacy rights of children in the online sphere, these organisation all have experience that relates to those concerns.

49. Based on the foregoing, it was and is the opinion of plaintiffs' counsel that this settlement represents a fair and reasonable result for the class in all the circumstances.

Notice

50. The form and manner of notice as set out in the Settlement Agreement, is as follows:

> "The Notice shall be disseminated in English and French within twenty (20) business days following the issuance of the Certification and Notice Approval Order, in the following manner, unless otherwise ordered by the Court:
>
> (a) Sent by email by Class Counsel or an administrator to the email addresses on file with the Defendants for Class Members;
>
> (b) sent by email by Class Counsel to any class member that has registered with them regarding this action;
>
> (c) posted on Class Counsel's website;
>
> (d) published on one occasion in a 1/8 of a page advertisement in the Globe & Mail (national edition, in English) and the Journal de Montréal (in French)."

51. To facilitate the giving of notice, the Defendants will provide the email addresses of all TikTok users that they have on file who are contemplated by the Class to Class Counsel or an administrator that has the technical ability to effectively send notice to addressees. I am advised by Thomas Gelbman, counsel for the Defendants, that, where still available, this will include users

who no longer have active TikTok accounts to ensure that the greatest possible number of Class Members throughout the whole Class Period receive notice.

52. Class Counsel will either use an outside settlement administration firm to send notice or will do so directly. We are currently in the process of obtaining quotes from professional settlement administrators who provide this service. Depending on what is most cost effective, technically feasible, and will protect Class Members' private information, we will choose the best option. If necessary, Class Counsel will use a bulk mailing service to send notice itself, which my firm has done before in the *McLean v Cathay Pacific Airways Limited* class action settlement.

53. In addition, notice will be sent by plaintiffs' counsel to persons who have registered with us. It will also be published on plaintiffs' counsels' website and in national newspapers in both official languages. Newspaper publication is an 'indirect' form of notice, but is usually employed in addition to whatever form of notice is available.

54. Class Counsel will also maintain a website to make all the key documents available to Class Members, and to serve as a contact point for Class Members. This is standard practice in class proceedings.

55. Based on my experience with class actions, including the recent settlement approved by Justice Kent in *McLean v Cathay Pacific Airways Limited*, 2021 BCSC 1456, email to the class members is one of the most effective form of notice. We are likewise employing email notice in the *Dwor et al v car2go Canada Limited et al*, SCBC S-205424 settlement recently approved in September 2021 by Justice Crossin. In my opinion, email notice will be particularly effective here, where the service in question is a digital one. Newspaper notice has long been employed as a 'catch-all' or 'back-up' form of notice, and that is how it is proposed to be used here. Based on my recent experience

in *McLean*, I expect that the newspaper publication costs will be less than $20,000.

AFFIRMED BEFORE ME in the City of Vancouver in the Province of British Columbia this 25 day of October, 2021

A Commissioner for Taking Affidavits
In the Province of British Columbia

Alexia Majidi
Barrister & Solicitor
Hammerco Lawyers LLP
#400 - 2233 Columbia Street
Vancouver BC V5Y 0M6
604-269-8500

KEVIN MCLAREN

This is Exhibit "A" to the Affidavit of
KEVIN McLAREN
sworn (or affirmed) before me at
VANCOUVER, B.C.
this 25 day of OCTOBER 2021.

A Commissioner/Notary Public for the
Province of British Columbia

CANADIAN NATIONAL SETTLEMENT AGREEMENT

made as of July 13, 2021

between

LISA THOMAS and A.C. BY HER LITIGATION GUARDIAN ROBERT CRONK (the "**Plaintiffs**")

and

TIKTOK INC and TIKTOK PTE LTD (the "**Defendants**")

RECITALS:

WHEREAS A.C. by her litigation guardian Robert Cronk commenced the Cronk Proceeding on March 3, 2019 as a proposed class proceeding;

WHEREAS Lisa Thomas commenced the Thomas Proceeding on September 8, 2020 as a proposed class proceeding;

WHEREAS the Plaintiffs allege, among other things, that the Defendants collected and misused the private information of the Plaintiffs and the Class Members, and thereby harmed the Plaintiffs and Class Members;

WHEREAS the Cronk Proceeding was discontinued as against musical.ly and ByteDance Technology Co. Ltd. by consent on September 26, 2019;

WHEREAS the Thomas Proceeding was discontinued as against ByteDance Ltd., TikTok Ltd and TikTok LLC by consent order dated March 25, 2021, and entered May 7, 2021;

WHEREAS the Cronk Proceeding was stayed by consent of the parties, by order entered July 5, 2021;

WHEREAS the Defendants deny all of the Plaintiffs' allegations and do not admit, through the execution of this Settlement Agreement or otherwise, any unlawful conduct, liability, wrongdoing, or fault of any kind by any of the Defendants (including all originally named Defendants), as alleged in the Proceedings or otherwise;

WHEREAS despite the Defendants' belief that the allegations advanced in the Proceedings are unfounded and that it has good and reasonable defences both to certification and on the merits, the Defendants have agreed to enter into this Settlement Agreement to achieve a final nation-wide resolution of all claims asserted, or which could have been asserted against them, individually or collectively, by the Plaintiffs in the Proceedings, and to avoid further expense, inconvenience and the distraction of protracted litigation;

WHEREAS the Parties intend by this Settlement Agreement to resolve all past, present and future claims of the Plaintiffs and Class Members arising out of or relating to the Proceedings, without admission or prejudice whatsoever;

WHEREAS the Parties, with counsel, attended a mediation conducted with an experienced mediator, and engaged in arms-length settlement discussions and negotiations, that resulted in this Settlement Agreement, which includes all of the terms and conditions of the settlement between the Defendants and the Plaintiffs, both individually and on behalf of the Class Members they seek to represent, subject to the approval of the Court;

WHEREAS the Plaintiffs and Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiffs' claims, and having regard to the burden and expense in litigating the Proceedings, including the risks and uncertainties associated with certification, trials and appeals, the Plaintiffs and Class Counsel have concluded that this Settlement Agreement is fair, reasonable, and in the best interests of the Plaintiffs and Class Members;

NOW THEREFORE in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that all claims of the Plaintiffs and Class Members in the Proceedings be settled and dismissed with prejudice and without costs, subject to the approval of the Court, on the following the terms and conditions:

Section 1 Definitions

1.1 For the purposes of this Settlement Agreement, including the Recitals and Schedules hereto:

(a) ***Court*** means the Supreme Court of British Columbia;

(b) ***Class*** means "All physical persons in Canada (including their estates, executors, or personal representatives) who used the TikTok platform on or before the date of certification" and includes the Subclass;

(c) ***Class Counsel*** means Hammerco Lawyers LLP, Mathew P Good Law Corporation and Slater Vecchio LLP;

(d) ***Class Counsel Fees*** includes the fees and disbursements of Class Counsel, and any applicable taxes thereon;

(e) ***Class Members*** means members of the Class, including Subclass Members, but excluded are the following:

(i) the directors and officers of any Defendants;

(ii) any judge of a court who has heard or will hear any motion or application in respect of the Proceedings; and

(iii) any person who opts out of the Proceedings;

(f) ***Cronk Proceeding*** means *A.C. an infant by her Litigation Guardian Robert Andrew Cronk v. musical.ly Inc.*, SCBC Vancouver Registry No. VLC-S-S-193384;

(g) ***Defence Counsel*** means Osler, Hoskin & Harcourt LLP;

(h) ***Distribution Protocol*** means the protocol attached as Schedule E;

(i) ***Effective Date*** means the date set out in section 4.3(e);

(j) ***Final Order*** means the later of a final judgment pronounced by the Court approving this Settlement Agreement in accordance with its terms, once the time to appeal such judgment has expired without any appeal being taken, or once there has been an affirmation of the approval of this Settlement Agreement in accordance with its terms, upon a final disposition of all appeals;

(k) ***Honourarium*** means any payment awarded individually to the Plaintiffs in the Proceedings in consideration of the Plaintiffs' time, effort, and result obtained for Class Members, as approved by the Court;

(l) ***Notice*** means the short form and long form of notice as approved by the Court as described in section 11.2;

(m) ***Opt-Out Deadline*** means the date which is thirty (30) days after the date the Notice is first published;

(n) ***Parties*** means the Plaintiffs and Defendants;

(o) ***Proceedings*** means, collectively, the Thomas Proceeding and the Cronk Proceeding;

(p) ***Released Claims*** means any and all manner of claims, demands, actions, suits, debts, judgments, losses, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, damages of any kind (including compensatory, punitive or other damages) whenever incurred, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses, penalties, and lawyers' fees (including Class Counsel Fees), known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute or in equity, or that may be created or recognized in the future by statute, regulation, judicial decision, or in any other manner, relating in any way to any conduct anywhere related to, arising from, or described in the pleadings filed in the Proceedings (or which could have been alleged in the Proceedings) prior to the date hereof including, without limitation, any such claims which have been, might have been, are now, or could have been asserted by any Plaintiff or any Class Member in an individual or representative capacity, directly or indirectly, whether in Canada or elsewhere, arising out of, based upon, or related to, in whole or in part, the alleged facts and circumstances underlying the claims and causes of action set forth in (or that could have been raised in) the Proceedings.

(q) ***Releasees*** means, jointly and severally, individually and collectively, the Defendants and all of their present and former direct and indirect parents, owners, subsidiaries, divisions, affiliates (including but not limited to the originally named Defendants), associates, partners, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past, present and future officers, directors, employees, agents, shareholders, lawyers, attorneys, trustees, servants and representatives, members, managers and the predecessors, successors, purchasers, heirs, executors, administrators, assigns, beneficiaries and *ayants-droits* of each of the foregoing.

(r) ***Releasors*** means, jointly and severally, individually and collectively, the Plaintiffs and the Class Members and their respective parents, subsidiaries, affiliates, predecessors, successors, heirs, executors, administrators, insurers, assigns, beneficiaries and *ayants-droits*.

(s) ***Settlement Agreement*** means this agreement, including recitals and schedules.

(t) ***Subclass*** means "All physical persons in Canada (including their estates, executors, or personal representatives) who used the TikTok platform at any time on or before the date of certification while under the age of majority in their province."

(u) ***Thomas Proceeding*** means *Lisa Thomas v. ByteDance Ltd. et al*, SCBC Vancouver Registry No. VLC- S-209073, in particular as pleaded in the proposed Amended Notice of Civil Claim, attached to the Notice of Application filed October 18, 2021.

Section 2 Condition Precedent

2.1 This Settlement Agreement shall be null and void and of no force or effect, subject to section 9.4 unless the Court approves this Settlement Agreement.

Section 3 Settlement Amount

3.1 Contingent on the approval of the Settlement Agreement by the Court, the Defendants have agreed to pay the settlement amount of CDN $2,000,000 (two million dollars) (the "**Settlement Amount**") plus costs reimbursement of CDN $26,629 (twenty-six thousand six-hundred and twenty-nine dollars) (the "**Cost Reimbursement Amount**") on behalf of the Defendants, without any admission of liability, in accordance with this Settlement Agreement.

3.2 Within 60 (sixty) days of the Effective Date, Defence Counsel shall pay the Settlement Amount and the Cost Reimbursement Amount to Slater Vecchio LLP in trust, unless otherwise ordered by the Court.

3.3 The Settlement Amount and the Cost Reimbursement Amount shall be provided in full satisfaction of the Released Claims against the Releasees.

3.4 The Settlement Amount and the Cost Reimbursement Amount shall be all inclusive of all administration costs (including notice and translation), Class Counsel Fees, interest, costs, and any other expense.

3.5 The Defendants shall have no obligation to pay to the Plaintiff or the Class Members any amount in addition to the Settlement Amount and the Cost Reimbursement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement or the Proceedings.

3.6 Upon payment of the Settlement Amount to Class Counsel after the Effective Date, Class Counsel intends to distribute the Settlement Amount as follows, subject to the approval of the Court:

(a) As set out in section 5, to Class Counsel on account of Class Counsel Fees inclusive of all disbursements and applicable taxes, as approved by the Court;

(b) As set out in section 6, to Class Counsel on account of any Honourarium awarded individually to the Plaintiffs, as approved by the Court;

(c) The funds remaining will be distributed as a *cy près* donation in accordance with the Distribution Protocol at Schedule E.

Section 4 Settlement Approval

4.1 The Parties will use their best efforts to implement this settlement, obtain approval of this Settlement Agreement from the Court, and secure the prompt, complete and final disposition of the Proceedings.

4.2 The Parties agree to consent to certification of the Proceedings solely for settlement purposes.

4.3 Settlement approval shall be sought in the following way:

(a) As soon as practicable after execution of this Settlement Agreement, the Plaintiffs and Class Counsel shall bring an application before the Court for consent certification of the Proceedings on behalf of the Class for settlement purposes only and approval of the Notice described in section 11 (the "**Certification and Notice Approval Order**");

(b) The Certification and Notice Approval Order shall be substantially in the form attached as Schedule A.

(c) As soon as practicable after (i) the Notice described in section 11 has been published, and (ii) the deadline for opting out of the Class and objecting to the settlement have expired, the Plaintiffs and Class Counsel shall bring an application before the Court for an order approving this Settlement Agreement (the "**Settlement Approval Order**").

(d) The Settlement Approval Order shall be substantially in the form attached as Schedule D.

(e) If no appeal is taken from the Settlement Approval Order, the Settlement Approval Order will be deemed final 30 days after it is pronounced or, if any appeal is taken, upon the final disposition of the appeal (the "**Effective Date**").

(f) The proposed Amended Notice of Civil Claim shall only be filed after the Effective Date.

Section 5 Class Counsel Fees

5.1 Class Counsel may bring an application to the Court for approval of Class Counsel Fees contemporaneous with seeking approval of this Settlement Agreement or at such other time thereafter as they determine in their discretion.

5.2 Class Counsel Fees will be awarded at the discretion of the Court.

5.3 The Defendants will not make submissions in relation to Class Counsel Fees.

5.4 The approval of Class Counsel Fees is not a material term of this Settlement Agreement and this Settlement Agreement shall not be contingent upon Court approval of Class Counsel Fees. A separate order will be taken out dealing with Class Counsel Fees, disbursements, and any Honourarium for the Plaintiffs.

5.5 Class Counsel Fees and the Cost Reimbursement Amount may only be paid out of the Settlement Amount after the Effective Date.

5.6 The Defendants shall not be liable for any fees, disbursements, or taxes of any of Class Counsel or the Plaintiffs' or Class Members' respective lawyers, experts, advisors, agents or representatives, except for the Cost Reimbursement Amount to be paid to Class Counsel contemporaneously with the transfer of the Settlement Amount.

Section 6 Honourarium for Plaintiffs

6.1 Class Counsel may bring an application to the Court for approval of an Honourarium for the Plaintiffs in the Proceedings contemporaneous with seeking approval of this Settlement Agreement or at such other time thereafter as they determine in their discretion.

6.2 Any Honourarium to the Plaintiffs will be awarded at the discretion of the Court.

6.3 The Defendants will not make submissions in relation to any Honourarium for the Plaintiffs.

6.4 The approval of an Honourarium to the Plaintiff is not a material term of this Settlement Agreement and this Settlement Agreement shall not be contingent upon court approval of any Honourarium for the Plaintiff.

6.5 Any Honourarium to the Plaintiffs may only be paid out of the Settlement Amount after the Effective Date.

6.6 The Defendants shall not be liable for any Honourarium to the Plaintiff or Class Members, if awarded by the Court.

Section 7 Releases and Dismissals

7.1 Upon the Effective Date, and in consideration of payment of the Settlement Amount and for other valuable consideration set forth in this Settlement Agreement, the Releasors will fully, finally, forever and absolutely release, relinquish, acquit, and discharge the Releasees from and for the Released Claims that any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have, and shall not now or hereafter institute, maintain, or assert on their own behalf, on behalf of the Class, or on behalf of any other person or entity, any Released Claims.

7.2 Without limiting any other provisions herein, each Releasor who did not opt out will be deemed by the Settlement Agreement completely and unconditionally to have released and forever discharged the Releasees from any and all Released Claims, including all claims, actions, causes of action, suits, debts, duties, accounts, bonds, covenants, contracts, and demands whatsoever, whether known or unknown, that were asserted or could have been asserted in the Proceedings that is the subject of this Settlement Agreement or in relation to any of the facts alleged therein.

7.3 Upon the Effective Date, each Releasor will be forever barred and enjoined from continuing, commencing, instituting, maintaining, asserting or prosecuting, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim, litigation, investigation or other proceeding in any court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum, or any other forum, directly, representatively, or derivatively, against any of the Releasees, and/or any other person or third-party who may claim contribution or indemnity or claim over other relief from any Releasee, in respect of any Released Claims. For greater certainty and without limiting the foregoing, the Releasors shall not assert or pursue a Released Claim against any Releasee under the laws of any foreign jurisdiction.

7.4 Upon the Effective Date, the Proceedings shall be dismissed with prejudice as against the Defendants and without costs to the Parties.

7.5 Upon the Effective Date, each Class Member shall be deemed to irrevocably consent to the dismissal, without costs and with prejudice, of any other action or proceeding relating to the Released Claims against the Releasees and all such actions or the Proceedings shall be dismissed, without costs and with prejudice.

Section 8 No Admission of Liability

8.1 The Parties agree that, whether or not this Settlement Agreement is finally approved or is terminated, this Settlement Agreement and anything contained herein, and any and all

negotiations, documents, discussions, and the Proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute, regulation or law, or of any wrongdoing or liability by the Defendants, or of the truth of any of the claims or allegations made in the Proceedings, or in any other pleading filed by the Plaintiffs.

8.2 The Parties further agree that, whether or not this Settlement Agreement is finally approved or is terminated, this Settlement Agreement, and anything contained herein, and any and all negotiations, documents, and discussions associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to seek court approval of this Settlement Agreement, to give effect to and enforce the provisions of this Settlement Agreement, or to defend against the assertion of Released Claims, or as otherwise permitted by law.

Section 9 Termination of Settlement Agreement

9.1 The Parties expressly reserve all their respective rights and may terminate this Settlement Agreement in the event that:

(a) the Court declines to certify the Proceedings for the purposes of settlement;

(b) the Court declines to approve this Settlement Agreement or any material part thereof or approves this Settlement Agreement in a materially modified form;

(c) the Court issues an order approving the settlement that is not substantially in the form attached to this Settlement Agreement as Schedule D; or

(d) the Settlement Approval Order does not become a final order.

9.2 Any order, ruling or determination with respect to Class Counsel Fees, Honourarium or the Distribution Protocol shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not constitute any basis for the termination of this Settlement Agreement.

9.3 If material parts of the Settlement Agreement are not approved, or if approval of any material portion or provision of the Settlement Agreement is reversed or altered on appeal, or if terminated in accordance with section 9.1, then:

(a) this Settlement Agreement shall become null and void and shall have no further force or effect except as provided for in section 9.4 (Survival of Provisions after Termination);

(b) the Parties shall be restored to their respective positions in the Proceedings immediately prior to reaching the settlement. In particular, the proposed Amended

Notice of Civil Claim shall not be filed and each of the Proceedings shall proceed independently as currently pleaded;

(c) any order by the Court certifying the Proceedings for the purposes of settlement or approving this Settlement Agreement shall be set aside and declared null and void and of no force or effect, and shall be without prejudice to any position of any of the Parties on any issue in the Proceedings or any other proceeding; and

(d) documents or communications related to the settlement (including the minutes of settlement, and this Settlement Agreement) shall have no force or effect, with all applicable privilege protections maintained, and not be admissible in evidence for any purpose in the Proceedings or in any other proceeding.

9.4 If this Settlement Agreement is terminated or otherwise fails to take effect for any reason, the provisions of this Section and Sections 8 and 13.5 and the definitions and Schedules applicable thereto shall survive the termination and continue in full force and effect. The definitions and Schedules shall survive only for the limited purpose of the interpretation of those aforementioned sections, within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

Section 10 Administration

10.1 Class Counsel will be responsible for:

(a) responding to inquiries from Class Members;

(b) receiving and maintaining Class Member correspondence regarding opting out of the Proceedings and objections to the Settlement;

(c) posting Notice on Class Counsel's website;

(d) disbursing the Settlement Amount in accordance with the Distribution Protocol.

10.2 The costs of such administration are included in the Class Counsel Fees.

10.3 The Parties will cooperate to send Notice in accordance with section 11 by email to potential Class Members in Canada for whom the Defendants can identify email addresses. The Defendants shall provide the email addresses they can identify for all TikTok users contemplated by the Class to Class Counsel or an administrator that has the technical ability to effectively send notice to addressees, subject to a confidentiality agreement satisfactory to Defence Counsel and Class Counsel. The email addresses provided by the Defendants may only be used by Class Counsel or the administrator for the purpose of distributing the Court approved Notice.

Section 11 Notice of the Settlement Approval Hearing

11.1 Class Members will be given Notice of this Settlement Agreement and (i) the certification of the Proceedings against the Defendants for settlement purposes, (ii) the hearing at which Court will be asked to approve the Settlement Agreement, and, if brought contemporaneously, (iii) the requests to approve Class Counsel Fees and Honourarium to the Plaintiffs.

11.2 The Notice described in section 11.1 will be in the form attached as Schedule B (short form and long form) or as otherwise agreed by Class Counsel and Defence Counsel and approved by the Court, or in a form ordered by the Court.

11.3 The Notice shall be disseminated in English and French within twenty (20) business days following the issuance of the Certification and Notice Approval Order, in the following manner, unless otherwise ordered by the Court:

(a) Sent by email by Class Counsel or an administrator to the email addresses identified by the Defendants for Class Members;

(b) sent by email by Class Counsel to any class member that has registered with them regarding this action;

(c) posted on Class Counsel's website;

(d) published on one occasion in a 1/8 of a page advertisement in the Globe & Mail (national edition, in English) and the Journal de Montréal (in French).

11.4 All costs associated with the publication of the notice shall be paid from the Settlement Amount.

11.5 If any court requires that additional notice be published, the Parties agree that the costs shall be paid from the Settlement Amount and the terms of payment shall follow the same procedure as for the Notice of the settlement approval hearing.

11.6 The Defendants shall not have any responsibility for the costs of the Notice or any additional notice required by any court, except for any internal costs associated with the provision of email addresses.

Section 12 Opt-Outs

12.1 Persons who want to opt out of the Proceedings must do so by sending a written election to opt out ("**Election**") by pre-paid mail, courier or email to Class Counsel at an address identified in the Notice. An Election to opt out will only be valid if it is received by Class Counsel at the designated address on or before the Opt-Out Deadline.

12.2 The Election must be signed by the person who wishes to opt out and either (i) in the form attached as Schedule C or (ii) contain the following information in order to be valid:

(a) the person's full name, current address and telephone number;

(b) proof of class membership in the form of their TikTok user name;

(c) a statement to the effect that the person wishes to be excluded from the Proceedings; and

(d) the reasons for opting out.

12.3 Opt-out forms or documents that purport to opt out multiple Class Members, or so-called "mass" or "class" opt-outs, shall not be permitted.

12.4 Class Counsel shall provide Defence Counsel with copies of all Elections or opt-out forms received by Class Counsel within five (5) business days of receipt.

12.5 Upon the Settlement Approval Order becoming final, any Class Member who has not opted out of the Proceedings shall be bound by the terms of the Settlement Agreement.

12.6 With respect to any potential Class Member who validly opts out from the Proceedings, the Defendants reserve all of their legal rights and defences.

Section 13 Miscellaneous

13.1 The Recitals set out herein are incorporated with and form part of this Settlement Agreement.

13.2 The Schedules annexed hereto form part of this Settlement Agreement.

13.3 Class Counsel or Defence Counsel may apply to the Court for directions in respect of the implementation and administration of this Settlement Agreement. All applications contemplated by this Settlement Agreement, including applications to the Court for directions, shall be on notice to counsel for the Parties.

13.4 Except as otherwise provided herein, the Parties shall bear their own respective costs of the Proceedings and the approval and implementation of the Settlement Agreement. The Defendants have no liability with respect to the administration of the Settlement Amount.

13.5 This Settlement Agreement shall be governed by, construed, and interpreted solely in accordance with the laws of the Province of British Columbia.

13.6 The Settlement Agreement constitutes the entire agreement among the Parties, and supersedes any and all prior and contemporaneous understandings, undertakings, negotiations, representations, communications, promises, agreements, agreements in principle, and memoranda of understanding in connection herewith. The Parties agree that they have not received or relied on any agreements, representations, or promises other than as contained in the Settlement Agreement. None of the Parties shall be bound by any prior obligations, conditions, or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.

13.7 This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto.

13.8 This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Class Members, the Defendants, the Releasors, the Releasees and all of their successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made by the Plaintiff shall be binding upon all Releasors and each and every covenant and agreement made by the Defendants shall be binding upon all of the Releasees.

13.9 This Settlement Agreement has been the subject of negotiations and discussions among the Parties, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

13.10 Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement.

13.11 This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile or electronically transmitted signature shall be deemed an original signature for purposes of executing this Settlement Agreement. This Settlement Agreement may be delivered and is fully enforceable in either original, faxed, or other electronic form provided that it is duly executed.

13.12 Where this Settlement Agreement requires a Party to provide notice or any other communication or document to another, such notice, communication, or document shall be provided by email, or letter by overnight delivery to the representatives for the Party to whom notice is being provided, as identified below:

For the Plaintiffs and for Class Counsel in the Proceedings:

Anthony Vecchio QC
Slater Vecchio LLP
1800 - 777 Dunsmuir Street
Vancouver, BC V7Y 1K4

With a copy by email to:
Mathew Good (mat@goodbarrister.com) and
Kevin McLaren (kmclaren@hammerco.ca)

For the Defendants:

Thomas Gelbman
Osler, Hoskin & Harcourt LLP

1055 West Hastings Street
Suite 1700, The Guinness Tower
Vancouver, BC V6E 2E9

tgelbman@osler.com

13.13 Date of Execution: The Parties have executed this Settlement Agreement as of the date on the cover page.

13.14 English Language: It is the express wish of the parties that this Settlement Agreement and all related documents, including notices and other communications, be drawn up in the English language only. *Il est la volonté expresse des parties que cette convention et tous les documents s'y rattachant, y compris les avis et les autres communications, soient rédigés et signés seulement en anglais.*

FOR PLAINTIFFS AND FOR CLASS COUNSEL:

Name: Kevin McLaren
Hammerco Lawyers LLP
Solicitor for A.C. by her litigation guardian Robert Cronk

Name: Saro Turner
Slater Vecchio LLP
Solicitor for Lisa Thomas

FOR THE DEFENDANTS:

Name: Thomas Gelbman
Osler, Hoskin & Harcourt LLP
Solicitors for TikTok Inc. and TikTok Pte Ltd.

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SCHEDULE A

No. S-209073
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between

LISA THOMAS

PLAINTIFF

and

TIKTOK INC and TIKTOK PTE LTD

DEFENDANTS

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

ORDER MADE AFTER APPLICATION

BEFORE } THE HONOURABLE JUSTICE EDELMANN } ___/____/2021

ON THE APPLICATION of the plaintiff, Lisa Thomas, coming on for hearing at Vancouver, BC on October 27 and 28, 2021; and on hearing Mathew P. Good, Kevin McLaren, Saro Turner, Alexia Majidi and Ryan Matheuszik jointly for the plaintiff Lisa Thomas and the plaintiff A.C. by her litigation guardian Robert Cronk in *A.C. an infant by her Litigation Guardian Robert Andrew Cronk v. musical.ly Inc.* SCBC Vancouver Registry No. VLC-S-S-193384; and Tommy Gelbman and Carla Breadon for the Defendants;

THIS COURT ORDERS that:

1. For the purposes of the Order, except to the extent that they are modified in this Order, the definitions set out in the settlement agreement dated July 13, 2021 ("**Settlement Agreement**"), and attached as **Schedule A** to this Order, apply to and are incorporated into this Order;

2. This action, as set out in the Proposed Amended Notice of Civil Claim, in the form attached as Schedule B to this Order, is certified as a class proceeding as against the Defendants for settlement purposes only;

3. The Proposed Amended Notice of Civil Claim shall not be filed with the Court by the Plaintiffs unless and until the Court grants final approval of the Settlement Agreement;

4. The class is defined as: "All physical persons in Canada (including their estates, executors, or personal representatives) who used the TikTok platform on or before the date of certification" (the "**Class**" and "**Class Members**");

5. The included subclass is defined as: "All physical persons in Canada (including their estates, executors, or personal representatives) who used the TikTok platform at any time on or before the date of certification while under the age of majority in their province" (the "**Subclass**");

6. Lisa Thomas is appointed the representative plaintiff on behalf of the Class, and A.C. by her litigation guardian Robert Cronk is appointed the representative plaintiff on behalf of the Subclass;

7. Mathew P Good Law Corporation, Hammerco Lawyers LLP and Slater Vecchio LLP are appointed class counsel on behalf of the Class ("**Class Counsel**");

8. The following common issue is certified:

   > Was the privacy of Class Members breached by any of the Defendants during the Class Period in the operation of the TikTok App?

9. Notice is approved in the form set out as Schedule B to the Settlement Agreement;

10. Notice of certification will be distributed as provided for by Section 11 of the Settlement Agreement;

11. The stay of proceeding in *A.C. an infant by her Litigation Guardian Robert Andrew Cronk v. musical.ly Inc.* SCBC Vancouver Registry No. VLC-S-S-193384 is extended pending

the approval of the settlement in this action, by consent.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

.....
Signature of
Lawyer for Class

.....
Signature of Tommy Gelbman
Lawyer for the Defendants TikTok Inc. and TikTok Pte Ltd.

By the Court.

.....
Registrar

SCHEDULE A

[Settlement Agreement]

SCHEDULE B

Amended by Order of Justice Edelmann, made [DATE], 2021

No. S-209073
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between

LISA THOMAS

PLAINTIFF

and

~~BYTEDANCE LTD, TIKTOK LTD, TIKTOK LLC,~~
TIKTOK INC and TIKTOK PTE LTD

DEFENDANTS

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

AMENDED NOTICE OF CIVIL CLAIM

(TikTok - ~~Tracking~~ Privacy Breaches)

This action has been started by the plaintiff for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

(a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and

(b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

(a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and

(b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff,

(a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you,

(b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you,

(c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, or

(d) if the time for response to civil claim has been set by order of the court, within that time.

THE PLAINTIFF'S CLAIM

Part 1: STATEMENT OF FACTS

Overview

1. TikTok Inc. is an American company that operates a video social networking app, originally named *Musical.ly* and currently named *TikTok* (the "**App**"). The App collects information from its users, including but not limited to email addresses, phone numbers, usernames, first and last names, short biographies, biometric data, geolocation data and a profile picture (the "**Private Information**").

2. Among the users of the App ~~users~~ are children under the age of majority (the "**Underage Users**"). The Defendants collected, used, retained, and commercialized the Private Information

of Underage Users without obtaining parental consent of the Underage Users, and profited from it. The Defendants' wrongful acts violated the *Privacy Act*, RSBC 1996, c 373, the *Infants Act*, RSBC, c 223, and related enactments, and unjustly enriched it at the expense of Underage Users.

3. In addition, for at least 18 months prior to November 18, 2019, ~~ByteDance Ltd and its subsidiaries (collectively, "**ByteDance**")~~ TikTok Inc. and TikTok Pte. Inc. deliberately intercepted, collected, recorded and exploited the personal information of people using the ~~TikTok~~ App on Google's Android mobile operating system ("**AndroidOS**"), in contravention of Google's policies. Despite Google's policies prohibiting the collection of unique device identifiers known as MAC addresses (further defined below), TikTok not only deliberately collected device MAC addresses through the exploitation of a bug in AndroidOS, but also added an extra layer of data encryption to the ~~TikTok~~ App designed to conceal this violation of user privacy from Google and users. Users of the ~~TikTok~~ App are not given an option to consent to the collection of their device's MAC address, and it would be unknown to them that this data collection was occurring.

4. Furthermore, the Defendants have used automated software, proprietary algorithms, AI, facial recognition, and other technologies to commercially profit from Plaintiff's and Class Members' identities, unique identifying information, biometric data and information, images, video and digital recordings, audio recordings, clipboard data, geolocation, names, e-mail addresses, passcodes, social media accounts, messaging services, telephone numbers, and other private, non-public, viewing history, digital activities, or confidential data and information, or meaningful combinations thereof, all of which is **Private Information**, as more fully set out below. Some or all of the Private Information has been surreptitiously transmitted to China. All of this is done without the knowledge or consent of users, including the Plaintiff's and Class Members.

~~1.~~5. TikTok ~~ByteDance~~'s deliberate and clandestine practices intentionally invade Class Members' privacy solely to enrich ~~ByteDance~~ the Defendants, primarily through the sale of advertising. TikTok ~~ByteDance~~'s unlawful acts violated the *Privacy Act*, RSBC 1996, c 373 and related enactments. Through this suit, Canadians ~~(outside Quebec)~~ seek to hold ~~ByteDance~~ the Defendants accountable for this misconduct.

The Parties

~~2. The defendant ByteDance Ltd (字节跳动有限公司), is a company incorporated in the Cayman Islands with a principal place of business at Xueyuan S Rd, Shuangyushu, Haidian District, China, 100080, and an address for service at PO Box 31119, Grand Pavilion Hibiscus Way, 802 West Bay Road, Grand Cayman, KY1-1205, Cayman Islands. ByteDance Ltd is the management entity for the TikTok app. ByteDance Ltd carries on business worldwide, including in British Columbia and Canada, by making the TikTok app available to Canadian users and selling advertising to Canadian businesses.~~

~~3. The defendant TikTok Ltd is a company incorporated in the Cayman Islands, with a subsidiaries based in the United States and elsewhere. TikTok Ltd is a wholly-owned subsidiary of ByteDance Ltd, and has an address for service at PO Box 31119, Grand Pavilion Hibiscus Way, 802 West Bay Road, Grand Cayman, KY1-1205, Cayman Islands. TikTok Ltd carries on business worldwide, including in British Columbia and Canada, by making the TikTok app available to Canadian users and selling advertising to Canadian businesses.~~

~~4. TikTok LLC is an American limited liability corporation registered in the state of Delaware, with an address for service c/o Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808 USA. TikTok LLC is a wholly-owned subsidiary of TikTok Ltd. TikTok LLC carries on business worldwide, including in British Columbia and Canada, by making the TikTok app available to Canadian users and selling advertising to Canadian businesses.~~

~~5.~~6. TikTok Inc is an American company incorporated in Delaware with an address for service c/o Harvard Business Services, Inc., 16192 Coastal HWY, Lewes, Delaware, 19958 USA. TikTok Inc is a wholly-owned subsidiary of ByteDance Ltd. TikTok Inc carries on business worldwide, including in British Columbia and Canada, by making the ~~TikTok~~ App available to Canadian users and selling advertising to Canadian businesses.

~~6.~~7. TikTok Pte Ltd is a company incorporated pursuant to the laws of Singapore with an address at 8 Marine View, #43-00, Asia Square Tower 1, Singapore 018960. TikTok Pte Ltd is a wholly-owned subsidiary of TikTok Ltd, and carries on business worldwide, including in British

Columbia and Canada, by making the ~~TikTok~~ App available to Canadian users and selling advertising to Canadian businesses.

~~7.~~8. Together, ~~ByteDance Ltd, TikTok Ltd, TikTok LLC,~~ TikTok Inc, and TikTok Pte Ltd are "~~ByteDance~~TikTok" and the "Defendants". ~~Each of the Defendants was an agent of the other for the purposes of developing, distributing, and operating the TikTok app. All~~ The Defendants participated in the provision of the ~~TikTok~~ App to users and advertisers in Canada and the collection of ~~MAC addresses~~ Private Information at issue in this proceeding, as set out below. ~~The precise roles of each of the Defendants are well known to them.~~

~~8.~~9. The Plaintiff Lisa Thomas is a resident of British Columbia. At all material times she was a user of the ~~TikTok~~ App on AndroidOS devices, including a Samsung S10. Until the public revelations of TikTok's misconduct regarding MAC addresses, she was unaware that the Defendants had collected the unique MAC address of the AndroidOS devices she used to access the ~~TikTok~~ App. She was similarly unaware that the Defendants used this unique identifier to track her activity. She did not consent to collection of her MAC address or her Private Information.

~~9.~~10. The Plaintiff brings this claim on her own behalf and on behalf of:

> All physical persons in Canada (including their estates, executors, or personal representatives) who used the TikTok platform on or before the date of certification
>
> ~~all individuals in Canada, other than Excluded Persons and residents of Quebec, who used the TikTok app on AndroidOS devices from the date ByteDance began collecting MAC addresses of such individuals until the date this action is certified as a class proceeding~~ (the "**Class**", "**Class Members**" and "**Class Period**"), and an included Subclass of:
>
> All physical persons in Canada (including their estates, executors, or personal representatives) who used the TikTok platform at any time on or before the date of certification while under the age of majority in their province (the "**Subclass**" and **"Subclass Members").**

~~Excluded Persons means:~~

~~1. Directors and officers of ByteDance and their immediate families;~~

~~2. Counsel for the parties, and the case management and trial judge in this proceeding, and their immediate families.~~

The Underage User Allegations

Collection of Children's Private Information by the Defendants

11. Since at least 2014, TikTok Inc. has operated the App. The App is available to download from Apple's App Store, the Google Play Store, and the Amazon Appstore, but generates revenue for the Defendants through various means. Since 2014, over 200 million users have downloaded the App worldwide, including in Canada.

12. To register for the App, users provide their email address, phone number, username, first and last name, a short bio, and a profile picture. Between December 2015 and October 2016, the Defendants collected geolocation information from users of the App.

13. Commencing in July 2017, TikTok requests age information from new users during the registration process for an App account, and prevents individuals who indicate that they are under 13 from creating accounts. The Defendants did not request age information for existing users who had already created App accounts prior to July 2017.

14. The App provides a platform for users to create videos and then synchronize them with music or audio clips from either the App's online music library or music stored on the user's device. The App's online library has millions of song tracks, including songs from popular children's movies and songs popular among tweens and younger children. The App offers simple tools to create and edit videos. Once the video is completed, the user has the option to name the video with a title before posting and sharing the video publicly.

15. In addition to creating and sharing videos, the App provides a platform for users to connect and interact with other users. Users can comment on the videos of other users, and have the option to "follow" other users' accounts so that they can view more of their videos in the future. Popular users can have millions of "fans" following their accounts. A user's account is set to public by default, which means that a user's profile bio, username, profile picture, and videos are public and searchable by other users. Users have the option to set their accounts to "private"

so that only approved followers can view their videos; however, users' profiles, including usernames, profile pictures and bios, remain public and searchable by other users.

16. The App also allows users to send direct messages to communicate with other users. These direct messages can include colorful and bright emoji characters ranging from animals, smiley faces, cars, trucks, and hearts, among many others. By default, an App user can direct message any other user.

17. Until October 2016, the App had a feature where a user could tap on the "my city" tab, which provided the user with a list of other users within a 50-mile radius, and with whom the user could connect and interact with by following the user or sending direct messages.

18. The Defendants were aware that Underage Users were using the App. As of at least October 2016, on the Musical.ly websites, it has provided parents guidance about their child's use of the App. Until April 2017, the webpage stated, for example, "If you have a young child on Musical.ly, please be sure to monitor their activity on the App."

19. The App does not provide a function for users, including Underage Users, to close their accounts, and instead requires users to send an email to the Defendants to close their accounts.

20. In December 2016, a third party publicly alleged in an interview with the cofounder of the App that seven users whose accounts were among the most popular in terms of followers appeared to be children under 13. Shortly thereafter, the Defendants then reviewed its most popular users and determined an additional 39 appeared to be under 13. In February 2017, the Defendants sent messages to these 46 users' email addresses telling users under 13 to edit their profile description to indicate that their accounts were being run by a parent or adult talent manager. The Defendants did not take any steps to ensure that the person who was responding to the request was a parent and not the child user.

21. In December 2017, ByteDance Ltd. acquired Musical.ly Inc. In August 2018, the Musical.ly app was merged with the App under the TikTok name. Musical.ly Inc. continued to operate the merged app.

22. The Defendants' decision to collect Private Information from Underaged Users was planned and deliberate, and was made knowing that Underaged Users had not consented to or were capable of consent, and were not aware of the implications of the collection, and that their

guardians were likewise not aware and had not consented to the collection of the Private Information.

23. The Defendants collected, retained and used the Private Information of Underaged Users for its own benefit.

24. The collection, retention and use of the Private Information of Underaged Users by the Defendants was unauthorized.

25. As a result of the unauthorized collection, retention and use of the Private Information of Underaged users, Subclass Members have been deprived by:

a) suffering a loss and violation of privacy;

b) being unfairly induced into making in-App purchases; and

c) suffering an increased risk of exploitation by adults.

26. As a result of the unauthorized collection, retention and use of the Private Information of Underaged Users by the Defendants, they have been enriched by:

a) selling advertisements to third parties on the basis of the Private Information;

b) selling the Private Information to third parties;

c) selling customer profiles of Underaged Users containing Private Information to third parties;

d) profiting from in-App purchases made by Underaged Users.

27. Collecting, retaining and using the Private Information was in the Defendants' economic interest, and provided them with a competitive advantage in the marketplace.

28. The Defendants have admitted collecting the Private Information from Underaged Users, and did not take proper, or any, steps to remove the Private Information of Underaged Users who it knew were using the App.

29. The Defendants operated from, amongst other jurisdictions, the United States. The United Sates *Children's Online Privacy Protection Act* (COPPA) requires that websites and online services directed to children obtain parental consent before collecting personal information

from children under the age of 13. The Google Play Store, Apple Store, and Amazon App store terms explicitly incorporated COPPA regardless of an end user's location.

30. Despite the explicit provisions of COPPA, the Defendants collected Private Information from Underage Users without parental consent.

31. On February 27, 2019, the Defendants agreed to pay a $5.7 million fine to settle a US Federal Trade Commission complaint alleging breaches of COPPA in the United States. At that time, the fine was the largest civil penalty ever collected in a case involving protection of children's privacy.

The MAC Address Allegations

MAC Addresses and Unique Identifiers

~~10.~~32. A media access control address ("**MAC address**"), also known as a "physical address" or a "burned-in address" is a unique identifier assigned by the manufacturer to the wired or wireless network chip used to access a data network over Ethernet, WiFi, or Bluetooth. A MAC address is unique to a device, and can be used to track that device. Typically, the user of a device cannot change the MAC address assigned to their device.

~~11.~~33. Because a MAC address is both unique and unchanging, it can be used to track a user even if they opt out of data tracking, set the AndroidOS system settings to prevent apps from tracking them, reset their assigned unique advertising ID, or delete an app and reinstall it later.

~~12.~~34. MAC addresses are personal information deserving of protection. In particular, MAC addresses need to be kept separate from a person's real name, registered name, physical location and biographical details. Otherwise, the combination of some or all of that information with a MAC address permits the data holder to track and monitor users across a wide spectrum of services, even when users have legitimately attempted to protect their privacy.

Google Policies Prohibit Collection of MAC Addresses on AndroidOS Devices

~~13.~~35. Since at least 2015, both Google and Apple have banned the collection of MAC addresses by apps available on the Google Play Store and the iOS App Store, respectively.

Google explicitly prohibits collecting MAC addresses in its best practices, and designed AndroidOS 6.0 and up to prevent apps from collecting MAC addresses:

> Don't work with MAC addresses
>
> MAC addresses are globally unique, not user-resettable, and survive factory resets. For these reasons, it's generally not recommended to use MAC address for any form of user identification. Devices running Android 10 (API level 29) and higher report randomized MAC addresses to all apps that aren't device owner apps.
>
> Between Android 6.0 (API level 23) and Android 9 (API level 28), local device MAC addresses, such as Wi-Fi and Bluetooth, ***aren't available via third-party APIs.*** The `WifiInfo.getMacAddress()` method and the `BluetoothAdapter.getDefaultAdapter().getAddress()` method both return `02:00:00:00:00:00`.
>
> Additionally, between Android 6.0 and Android 9, you must hold the following permissions to access MAC addresses of nearby external devices available via Bluetooth and Wi-Fi scans:
>
> | Method/Property | Permissions Required |
> |---|---|
> | `WifiManager.getScanResults()` | `ACCESS_FINE_LOCATION` or `ACCESS_COARSE_LOCATION` |
> | `BluetoothDevice.ACTION_FOUND` | `ACCESS_FINE_LOCATION` or `ACCESS_COARSE_LOCATION` |
> | `BluetoothLeScanner.startScan(ScanCallback)` | `ACCESS_FINE_LOCATION` or `ACCESS_COARSE_LOCATION` |

~~14.~~36. Google Play Store policies warn developers that they must seek "explicit consent of the user" before associating an advertising identifier with "personally-identifiable information or … any persistent device identifier".

~~15.~~37. At all material times, ~~ByteDance was~~the Defendants were aware of these prohibitions and restrictions on the collection of MAC addresses by Google for apps, including the ~~TikTok~~ App, distributed through the Google Play Store for AndroidOS devices.

~~16.~~38. Users' MAC addresses were not necessary to the operation of the ~~TikTok~~ App.

~~***Underaged Users***~~

~~17. ByteDance makes the TikTok app available to users between the ages of 13 and the age of majority ("Underaged Users"). The Defendants do not require parental consent for such users and have treated them in the same manner as users of the age of majority. Underaged Users are Class Members and part of the Class.~~

~~ByteDance's~~ The Defendants' Collection of MAC Addresses from TikTok Users

~~18.~~39. From a date currently unknown to the Plaintiff, but well known to the Defendants, the Defendants ~~ByteDance~~ exploited a bug in AndroidOS to circumvent the restriction against collecting MAC addresses from users of the ~~TikTok~~ App on AndroidOS devices, including the Plaintiff and Class Members.

~~19.~~40. Further, to conceal its wrongdoing, ~~ByteDance~~ the Defendants employed an extra layer of data encryption to obscure the fact that it was collecting users' MAC addresses from Google and users.

~~20.~~41. ~~TikTok~~ App users, including the Plaintiff and Class Members, had no knowledge that ~~ByteDance~~ the Defendants had collected a device's MAC address and was using this to track the user's activities. ~~TikTok~~ App users, including the Plaintiff and Class Members, did not and were not given any opportunity to consent to ~~ByteDance~~ the Defendants collecting or using their MAC addresses.

~~21.~~42. ~~ByteDance~~ The Defendants acted deliberately to devise a scheme to surreptitiously collect the MAC addresses and exploit them for its own benefit. The Defendants ~~ByteDance~~ collected, retained, and used the MAC addresses for ~~its~~ their own benefit.

~~22.~~43 The particulars of what the Defendants ~~ByteDance~~ have done with users' MAC addresses are well known to the Defendants, but necessarily include cross-referencing it against users' names and profiles, and user activity, on the ~~TikTok~~ App, to compile granular and invasive profiles of users. In addition, the Defendants~~ByteDance~~ have used the MAC addresses to compile lists of devices associated with a user, and monitor and track users across devices. The Defendants~~ByteDance~~ have exploited that information to sell advertising, user profiles, and personal information to third parties for its own profit.

~~23.~~44. As a result of the unauthorised collection, retention, and use of the MAC addresses, the Plaintiff and Class Members have been deprived by suffering a loss and violation of privacy, which has an economic value to them and to the Defendants.

~~24.~~45. As a result of the unauthorised collection, retention, and use of the MAC addresses, the Defendants ~~ByteDance~~ have been economically enriched by:

a. selling advertising to third parties on the basis of the MAC addresses for display to users of the ~~TikTok~~ App;

b. selling the MAC addresses and associated data to third parties;

c. selling customer profiles containing the MAC addresses and associated data to third parties;

d. advancing its own research and development agenda, turning users into unwitting test subjects, to profit its own commercial interests; and

e. permitting the Defendant ~~ByteDance~~ to track and exploit users across services, including beyond the ~~TikTok~~ App.

~~25.~~46. Collecting, retaining, and using the MAC addresses was in the Defendants' ~~ByteDance's~~ economic interest, and provided it with a competitive advantage in the marketplace and it profited by it.

~~26.~~47. The Defendants' ~~ByteDance's~~ actions were unconscionable. In circumstances in which The Defendants ~~ByteDance's~~ completely controls the operation of the ~~TikTok~~ App, and where users have no visibility into its mechanism of action, it took advantage of its position of power over users to exploit them and benefit itself. The Defendant ~~ByteDance~~ took advantage of the inability of users, including the Plaintiff and Class Members, to protect their own interests because of ignorance or inability to understand the existence, nature or character of its collection of MAC addresses.

~~27.~~48. The Defendants' ~~ByteDance's~~ actions breached the *Criminal Code of Canada*, sections 402.1 and 402.2(2). These gross violations of privacy negate any justification, which is denied, for its collection of MAC addresses.

~~28.~~49. The Defendants' ~~ByteDance's~~ wrongdoing became public on about August 11, 2020, when the *Wall Street Journal* broke the story.

Unauthorised Collection of Private Information

50. In addition to and separately from the collection of Private Information from Underaged Users and the wrongdoing related to MAC addresses, the Defendants have collected, manipulated and used the Private Information of Class Members in breach of privacy.

Mechanics and Scope of Private Information Collection

51. The Defendants require that users provide certain Personal Information before users can create or post videos. The Defendants collect user videos by transferring any video created by a user, including videos that are not shared publicly, to a domain controlled by the Defendants: muscdn.com. The taking of private videos is not disclosed to users. The App also takes user and device information by infiltrating mobile devices to access and extract further Private Information.

52. The Defendants transmit physical location data and video viewing histories to third parties without users' knowledge or consent. For example, where a user is physically situated at different times, what videos a user views, when a user views videos, and which videos a user "like" is transmitted to Facebook for the purpose of formulating targeted advertising to users. The taking of Private Information begins after the downloading process but before a user creates an account or videos, and continues even after a user closes the app. The Defendants access Private Information created outside of an unrelated to the App by accessing, for example, the clipboard on users' devices, private messaging apps, and other sensitive data and information.

53. The Defendants also record and collect biometric information, such as a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry, which allows recording of race, gender and age related information. The Defendants apply facial and voice recognition technology to TikTok videos. Biometric information, a sub-group of Personal Information, is collected to further enhance and augment complex algorithms that track and record profiles of users.

Exploiting the Private Information of Users

54. The Defendants create a dossier of private and personally identifiable and content for each TikTok user for their own economic and financial gain. Through their unlawful collection of Private Information, the Defendants analyse users' consumption habits, and preferences, which in turn makes targeting them with advertising more efficient, effective, and lucrative. The Defendants unlawfully earn and continue to earn profits and revenues from the collection of Private Information.

55. The Defendants also transfer the Private Information outside the care and control of their United States and Singapore-based corporate personalities, without user consent or notice, which creates a risk of use of the Private Information by the Government of China. The Defendants' privacy policy does not advise nor seek consent from users that their Personal Information will be transferred to China, for any purpose. Further, or in the alternative, the Defendants transfer users' Personal Information to other tech giants based in China, such as Tencent Holdings Limited and Alibaba Holding Group Limited in exchange for undisclosed commercial benefit to the Defendants.

Part 2: RELIEF SOUGHT

On behalf of all Class Members

~~29.~~56. An order certifying this action as a class proceeding under the *Class Proceedings Act*, RSBC 1996, c 50;

~~30.~~57. Statutory damages for breach of the *Privacy Act BC* for residents of British Columbia;

~~31.~~58. Statutory damages or disgorgement for breach of the *Privacy Act SK* for residents of Saskatchewan;

~~32.~~59. Statutory damages or disgorgement for breach of the *Privacy Act MB* for residents of Manitoba;

~~33.~~60. Statutory damages or disgorgement for breach of the *Privacy Act NL* for residents of Newfoundland & Labrador;

~~34.~~61. Damages for the tort of intrusion upon seclusion for residents of Yukon, Northwest Territories, Alberta, Nunavut, Ontario, New Brunswick, Nova Scotia and Prince Edward Island;

~~35. Statutory compensation under the *Infants Act*, RSBC 1996, c 223, s 20 and related enactments;~~

62. Disgorgement of all benefits received by the Defendants attributable to the unauthorised collection, retention, and use of the Private Information;

~~36.~~63. Punitive damages;

64. An injunction to restrain the impugned practices by the Defendants;

65. In addition or in the alternative, a declaration and an injunction to restrain or prohibit further collection, retention, use or disclosure of Private Information from Underage Users, under the *Business Practices and Consumer Protection Act*, s 172;

~~37.~~66. Interest on all amounts under the *Court Order Interest Act*, RSBC 1996, c 79;

On behalf of Subclass Members

67. A declaration that any agreement by an Underage User for the collection, retention, use or disclosure of Private Information is unenforceable under the *Infants Act*, s 19;

68. Statutory compensation under the *Infants Act*, s 20.

~~38. An injunction to restrain the impugned practice by the Defendants;~~

~~39. Interest under the *Court Order Interest Act*, RSBC 1996, c 79;~~

~~40.~~70. Such further and other relief as this Honourable Court may deem just.

Part 3: LEGAL BASIS

~~41.~~71. The Plaintiff pleads and relies on the *Class Proceedings Act*, the *Privacy Act BC* and related enactments, the *Infants Act* and related enactments, the *Court Jurisdiction and Proceedings Transfer Act*, and the *Supreme Court Civil Rules*.

Breach of the Privacy Act (BC)

~~42.~~72. The *Privacy Act*, RSBC 1996, c 373, s 1 creates a tort, actionable without proof of damage, where a person, wilfully and without a claim of right, violates the privacy of another.

~~43.~~73. The Defendants' acts as set out above constituted "eavesdropping or surveillance" on Class Members within the meaning of the *Privacy Act BC*, s 1(4).

~~44.~~74. The Defendants breached the *Privacy Act BC*, s 1 and the Plaintiff and Class Members' privacy as set out above when they collected, retained and used ~~MAC addresses~~ Private Information from the Plaintiff and Class Members wilfully and without a claim of right.

~~45.~~75. The Plaintiff and Class Members resident in British Columbia are entitled to statutory damages as a result of the Defendants' breaches under the *Privacy Act BC*, s 1.

Breach of the Privacy Act (SK)

~~46.~~77. The *Privacy Act*, RSS 1978, c P-24, s 2 creates a tort, actionable without proof of damage, where a person, wilfully and without a claim of right, violates the privacy of another.

~~47.~~78. The Defendants' acts as set out above constituted "eavesdropping" or "surveillance" on Class Members within the meaning of the *Privacy Act SK*, s 3(a).

~~48.~~79. The Defendants breached the *Privacy Act SK* and Class Members' privacy as set out above when they collected, retained and used Private Information ~~MAC addresses~~ from Class Members wilfully and without a claim of right, and without Class Members' consent, express or implied.

~~49.~~80. By their conduct set out above, the Defendants has breached the *Privacy Act SK*, ss 2 and 3(c).

~~50.~~81. Class Members resident in Saskatchewan are entitled to statutory damages as a result of the Defendants' breaches under the *Privacy Act SK*, s 2 under s 7(a) or disgorgement under s 7(c).

Breach of the Privacy Act (MB)

~~51.~~82. The *Privacy Act*, CCSM, P125, s 2 creates a tort, actionable without proof of damage, where a person to substantially, unreasonably, and without claim of right, violates the privacy of another.

~~52.~~83. The Defendants' acts as set out above constituted "eavesdropping" or "surveillance" on Class Members within the meaning of the *Privacy Act* MB, s 3(a).

~~53.~~84. The Defendants breached the *Privacy Act* MB and Class Members' privacy as set out above when they collected, retained and used Private Information ~~MAC addresses~~ from Class Members wilfully and without a claim of right, and without Class Members' consent, express or implied.

~~54.~~85. Class Members resident in Manitoba are entitled to statutory damages as a result of the Defendants' breaches under the *Privacy Act* MB, s 2 under s 4(1)(a) or disgorgement under s 4(1)(c).

Breach of the Privacy Act (NL)

~~55.~~86. The *Privacy Act*, RSNL 1990, c P-22, s 3(1) creates a tort, actionable without proof of damage, where a person, willfully and without a claim of right, violates the privacy of an individual (natural person).

~~56.~~87. The Defendants' acts as set out above constituted "eavesdropping" or "surveillance" on Class Members within the meaning of the *Privacy Act* NL, s 4(a).

~~57.~~88. The Defendants breached the *Privacy Act* NL and Class Members' privacy as set out above when they collected, retained and used Private Information ~~MAC addresses~~ from Class Members wilfully and without a claim of right, and without Class Members' consent, express or implied.

~~58.~~89. By their conduct set out above, the Defendants have breached the *Privacy Act* NL, ss 3 and 4(c).

~~59.~~90. Class Members resident in Newfoundland and Labrador are entitled to statutory damages as a result of the Defendants' breaches under the *Privacy Act* NL, s 3 under s 6(1)(a) or disgorgement under s 6(1)(c).

Intrusion upon Seclusion

~~60.~~91. For Class Members resident in Ontario and other common law provinces except British Columbia, Saskatchewan, Manitoba and Newfoundland and Labrador, it is a tort, actionable without proof of harm, for a defendant to:

a. intentionally or recklessly;

b. invade a plaintiff's private affairs or concerns;

c. without lawful justification;

d. where a reasonable person would regard the invasion as highly offensive, causing distress, humiliation or anguish.

~~61.~~92. As set out above, through their unauthorized interception, collection, and recording and exploitation of Class Members' Private Information~~MAC addresses~~, the Defendants committed the tort of intrusion upon seclusion against Class Members. The Defendants intentionally, or at a minimum recklessly, invaded the private affairs or concerns of the Class Members. The Defendants' actions were without lawful justification. A reasonable person would regard the invasion as highly offensive, causing distress, humiliation or anguish.

~~62.~~93. These Class Members are entitled to damages as a result of the Defendants' tortious acts.

Breaches of the Business Practices and Consumer Protection Act ("BPCPA")

94. The Defendants have breached the *BPCPA*.

95. The Plaintiff and Class Members used the App for purposes that are primarily personal, family or household and are "consumers" within the meaning of s. 1 of the *BPCPA*.

96. The App is a "good" or "service" within the meaning of s. 1 of the *BPCPA*.

97. The Defendants are a "supplier", within the meaning of s. 1 of the *BPCPA*. The *BPCPA* does not require privity of contract between suppliers and consumers.

98. The use of the App is a "consumer transaction", within the meaning of s. 1 of the *BPCPA*.

99. By its conduct set out above, the Defendants breached ss. 4, 5, 8 and 9 of the *BPCPA*. The Defendants' actions constitute unfair and unconscionable business practices.

100. The Plaintiff and Class Members have suffered loss within the meaning of s. 171 of the *BPCPA* as a result of the Defendants' contraventions of the *BPCPA*.

101. The Defendants engaged in or acquiesced to the contraventions that caused the loss and damage to the Plaintiff and Class Members, within the meaning of s. 171 of the *BPCPA*.

102. The Plaintiff and Class Members are entitled to damages under s. 171 of the *BPCPA*.

103. The Plaintiff and Class Members are entitled to a declaration to proclaim the Defendants' wrongdoing and an injunction to restrain further abuses, under the *BPCPA*, s 172.

104. The Plaintiff and Class Members rely upon parallel provisions and the common law in the other provinces and territories of Canada. Class Members resident outside British plead and rely on *inter alia*: *Consumer Protection Act*, RSA 2000, c C-26.3; *The Consumer Protection and Business Practices Act*, SS 2013, c C-30.2; *Consumer Protection Act*, CCSM c C200; *Consumer Protection Act*, 2002, SO, c 30, Sch A; *Consumer Protection Act*, CQLR c P-40.1; *Consumer Protection Act*, RSNS 1989, c 92; *Consumer Protection Act*, RSPEI 1988, c C-19; *Consumer Protection and Business Practices Act*, SNL 2009, c C-31.1; *Consumers Protection Act*, RSY 2002, c 40; *Consumer Protection Act*, RSNWT 1988, c C-17; and *Consumer Protection Act*, RSNWT 1988 (Nu), c C-17; each as amended from time to time and with regulations in force at material times.

Unlawful Means Tort

105. By its conduct set out above, the Defendants intended to injure the Plaintiff and Class members through the collection of Private Information as a means to enrich itself. The Defendants acted unlawfully against Google, Apple and Amazon by breaching their policies in order to inflict injury on the Plaintiff and Class Members. Google, Apple, and Amazon did or would have suffered loss as a result, and would have a cause of action against the Defendants for *inter alia* breach of contract, misrepresentation, and the breaches of COPPA.

106. The Plaintiff and Class Members waive this tort and elect to pursue restitutionary remedies against the Defendants for their unlawful acts. The Defendants must disgorge to Plaintiff and Class Members an amount attributable to the value it received for or attributable to the collection, retention, and use of the Private Information.

Unjust Enrichment

107. As set out above, the Defendants have been enriched by the collection, retention, and use of the Private Information from Class Members.

108. The Plaintiff and Class Members have been deprived through the loss of privacy and Private Information.

109. There is no juristic reason why the Defendants should have received or should retain this benefit. The lack of consent, the breaches of the *Infants Act* and the *Age of Majority Act*, *COPPA*, and the *Criminal Code of Canada*, RSC 1985, c 46, ss 402.1 and 402.2(2), negate any juristic reason including contract why the Defendants should have received or should retain the benefit.

110. In particular, the Private Information which was shared by the Defendants with advertisers and others falls within the definition of "identity information" under the *Criminal Code*, s 402.1. The unauthorised sharing, collection, retention, and use by the Defendants of the Private Information with third parties, recklessly or wilfully blind to the ways in which that conduct increased the risks of illegal hacking, identity theft, sexual exploitation of minors and

related crimes constitutes trafficking in identity information within the meaning of the *Criminal Code*, s 402.2(2).

111. As a result, the Defendants have been unjustly enriched by the benefits it received from the Plaintiff and the Class Members.

112. Justice and good conscience require that the Defendants disgorge to the Plaintiff and Class Members an amount attributable to the collection, retention, and use of the Private Information from the Class Members.

Breaches of the Infants Act

~~63.~~113. Persons under the age of majority are afforded special protection in British Columbia and elsewhere in Canada. Contracts made with minors are unenforceable by operation of the *Age of Majority Act*, RSBC 1996, c. 7 and the *Infants Act*, RSBC 1996, c 223, s. 19(1) and related enactments. Infants are entitled to compensation under the *Infants Act*, s 20 if a contract is unenforceable.

~~64.~~114. Personal information relating to youth and children is of particular sensitivity. Any collection use or disclosure of such private information must be done bearing in mind the age of the person whose private information is collected.

~~65.~~115. Underaged Users could not and did not provide consent to the Defendants for the collection, retention, use or disclosure of their ~~MAC addresses~~ Private Information.

~~66.~~116. There was no enforceable or any contract here to permit the collection of ~~MAC addresses~~ the Subclass Members' Private Information. Underaged Users are entitled to compensation from the Defendants for inter alia their loss of privacy.

~~67.~~117. Infants are entitled to compensation under the *Infants Act*, s 20 if a contract is unenforceable.

~~65.~~118. The terms of use between the Defendants and the Underaged Users are unenforceable. Subclass Members are entitled to compensation from the defendants for *inter alia* their loss of privacy.

~~66.~~119. The ~~Plaintiff and Class~~ Subclass Members rely upon parallel provisions and the common law in the other provinces and territories of Canada.

Punitive Damages

~~67.~~120. The Defendants' misconduct, as described above, was malicious, oppressive and high-handed, and departed to a marked degree from ordinary standards of decent behaviour. The Defendants violated the trust and security of Class Members. The Defendants did it deliberately, knowing that their actions were in breach of Google's policies and deliberately attempted to conceal their wrongdoing. The Defendants' actions offend the moral standards of the community and warrant the condemnation of the Court such that an award of punitive damages should be made.

Joint and Several Liability

~~68.~~121. The Defendants are jointly and severally liable for the acts of each of them.

Injunction

~~69.~~122. The Plaintiff and Class Members are entitled to an injunction under the *Law and Equity Act*, RSBC 1996, c 253 to restrain this conduct by the Defendants now and into the future.

Discoverability

~~70.~~123. The Plaintiff and Class Members could not reasonably have known that:

a. they sustained injury, loss or damage as a consequence of the Defendants' actions in respect of MAC addresses; or
b. having regard to the nature of their injuries, losses or damages, a court proceeding would be an appropriate means to seek to remedy the injuries, losses or damages until, at the earliest, August 11, 2020 when the *Wall Street Journal* broke the story regarding MAC addresses.

~~71.~~124. The Plaintiff and Class Members plead and rely on postponement and discoverability under the *Limitation Act*, SBC 2012, c 13, s 8.

~~72.~~125. In addition, the Defendants, through the covert scheme they undertook to collect the MAC addresses and the Private Information, willfully concealed the fact of the misuse of the Plaintiff and Class Members' MAC addresses and the Private Information without consent, and that this was caused or contributed to by the Defendants' acts or omissions. The Plaintiff and Class Members rely on *Pioneer Corp. v. Godfrey* and the *Limitation Act*, s 21(3).

~~73.~~126. The Plaintiff and Class Members plead and rely on the *Emergency Program Act*, Ministerial Order No M098 and related enactments to suspend the running of the limitation period from March 26, 2020.

Service on the Defendants

~~74.~~127. The Plaintiff and Class Members have the right to serve this Notice of Civil Claim on the Defendants pursuant to the *Court Jurisdiction and Proceedings Transfer Act*, SBC 2003, c 28, s 10 (*CJPTA*), because there is a real and substantial connection between British Columbia and the facts on which this proceeding is based.

~~75.~~128. The Plaintiff and Class Members rely on the following grounds, in that this action concerns:

a. a tort committed in British Columbia (*CJPTA*, s 10(g)); and
b. a business carried on in British Columbia (*CJPTA*, s 10(h)).

~~76.~~129. An action under the *Privacy Act* must be determined in the Supreme Court of British Columbia (*Privacy Act*, s 4).

Plaintiff's address for service:

Slater Vecchio LLP
1800 - 777 Dunsmuir Street
Vancouver, BC V7Y 1K4

With a copy to Hammerco Lawyers LLP by email at kmclaren@hammerco.ca
And to Mathew P Good Law Corporation by email at mat@goodbarrister.com

Fax number for service: 604.682.5197

Email address for service: service@slatervecchio.com

Place of trial: Vancouver, BC

The address of the registry is:

800 Smithe Street
Vancouver, BC
V6Z 2E1

Date: _____, 2021

For: _____

Signature of lawyer for plaintiff
Anthony A Vecchio, Q.C.
Kevin McLaren
Mathew P Good

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

ENDORSEMENT ON ORIGINATING PLEADING OR PETITION FOR SERVICE OUTSIDE BRITISH COLUMBIA

The plaintiff claims the right to serve this pleading on the Defendants ~~ByteDance Ltd, TikTok Ltd, TikTok LLC, TikTok Inc, and TikTok Pte Ltd~~ outside British Columbia on the ground that the *Court Jurisdiction and Proceedings Transfer Act*, SBC 2003, c 28, s 10 (*CJPTA*) applies because there is a real and substantial connection between British Columbia and the facts on which this proceeding is based. The Plaintiff and Class Members rely on the following grounds, in that this action concerns:

a. a tort committed in British Columbia (*CJPTA*, s 10(g)); and

b. a business carried on in British Columbia (*CJPTA*, s 10(h)).

Appendix

[*The following information is provided for data collection purposes only and is of no legal effect.*]

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

This is a claim for damages arising out of the Defendants'~~ByteDance's~~ breaches of privacy through unauthorised collection of user data.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

[ ] a motor vehicle accident

[ ] medical malpractice

[ ] another cause

A dispute concerning:

[ ] contaminated sites

[ ] construction defects

[ ] real property (real estate)

[ ] personal property

[x] the provision of goods or services or other general commercial matters

[ ] investment losses

[ ] the lending of money

[ ] an employment relationship

[ ] a will or other issues concerning the probate of an estate

[ ] a matter not listed here

Part 3: THIS CLAIM INVOLVES:

[x] a class action

[ ] maritime law

[ ] aboriginal law

[ ] constitutional law

[ ] conflict of laws

[ ] none of the above

[ ] do not know

Part 4:

Court Jurisdiction and Proceedings Transfer Act, SBC 2003, c 28

Court Order Interest Act, RSBC 1996, c 79

Privacy Act, RSBC 1996, c 373

SCHEDULE B

[Notice]

Short-Form Notice (1/8 page advertisement)

English

PROPOSED CLASS ACTION SETTLEMENT

NOTICE OF PROPOSED SETTLEMENT AND SETTLEMENT APPROVAL HEARING

DID YOU HAVE A TIKTOK ACCOUNT IN CANADA BEFORE [CERTIFICATION DATE]?

THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS

A class action settlement has been reached in *Lisa Thomas v. ByteDance Ltd, SCBC S-209073* and *A.C. an infant by her Litigation Guardian Robert Andrew Cronk v. musical.ly Inc., SCBC S-193384*. The action was certified by the Supreme Court of British Columbia.

The settlement is a compromise and is not an admission of liability or wrongdoing or fault by any of the defendants. The proposed settlement is subject to Court approval.

The class action has been certified on behalf of all physical persons in Canada (including their estates, executors, or personal representatives) who used the TikTok platform on or before **[the date of certification]**, and an included subclass of all physical persons in Canada (including their estates, executors, or personal representatives) who used the TikTok platform at any time on or before **[the date of certification]** while under the age of majority in their province.

For the payment of $2,000,000 plus $26,629 cost reimbursement by TikTok Inc and TikTok Pte Ltd, the Class will release the defendants from all claims. The settlement funds, after payment of Class Counsel fees, expenses, and any honourarium to the plaintiffs, will be donated to the Law Foundation of British Columbia, Canadian Centre for Child Protection, Kids Help Phone, and Boys & Girls Clubs Canada.

The representative plaintiffs have entered into a contingency fee agreement with class counsel providing for a maximum fee of 25%. Class Counsel will seek approval of their fees at or after the settlement approval hearing. The court will determine the amount to be paid to class counsel for legal fees and disbursements.

You are automatically included in the Class, and will be bound by the settlement if approved by the Court, unless you opt out. If you do not want to be part of the lawsuit,

you must opt out of the proceeding by delivering an opt out form to Class Counsel by no later than **[DATE]**.

For members of the Class that wish to object to the settlement, Distribution Protocol, Class Counsel fees or the honouraria to the plaintiff, you must notify Class Counsel no later than **[DATE]**, in the manner set out in the form notice.

Class Counsel are Hammerco Lawyers LLP, Mathew P Good Law Corporation, and Slater Vecchio LLP. More information on the settlement (including the opt-out form, and Settlement Agreement) is available at **[insert website, email].**

This notice has been authorized by the Supreme Court of British Columbia.

Long-Form Notice (Email)

English

NOTICE OF PROPOSED SETTLEMENT AND SETTLEMENT APPROVAL HEARING

DID YOU HAVE A TIKTOK ACCOUNT IN CANADA PRIOR TO [CERTIFICATION DATE]?

THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS

A class action settlement has been reached between the parties in *Lisa Thomas v. ByteDance Ltd. et al*, SCBC Vancouver Registry No. VLC- S-209073 [*Thomas*] and *A.C. an infant by her Litigation Guardian Robert Andrew Cronk v. musical.ly Inc.*, SCBC Vancouver Registry No. VLC-S-S-193384 [*Cronk*].

The Supreme Court of British Columbia has certified the class action for the purposes of implementing the proposed settlement. The proposed settlement is a compromise of disputed claims and is not an admission of liability, wrongdoing or fault by the defendants. The settlement is subject to the approval of the court.

The defendants are TikTok Inc. and TikTok Pte Ltd. (together, "**TikTok**").

What are the proceedings about?

The claim alleges that TikTok unlawfully collected and used private information of Class Members, including users under the age of majority, through the TikTok platform in breach of Canadian privacy laws. The plaintiffs sought to recover damages for Class Members for alleged losses as a result of this conduct. TikTok denies all of the allegations.

Who are in the Class and affected by the settlement?

The Class consists of "all physical persons in Canada (including their estates, executors, or personal representatives) who used the TikTok platform on or before **[the date of certification]**", and an included subclass of "all physical persons in Canada (including their estates, executors, or personal representatives) who used the TikTok platform at any time on or before **[the date of certification]** while under the age of majority in their province".

The court has appointed Lisa Thomas and A.C. by her litigation guardian Robert Cronk as representatives on behalf of the Class and Subclass. Class Counsel are Hammerco Lawyers LLP, Mathew P Good Law Corporation and Slater Vecchio LLP.

What are the terms of the settlement?

The settlement provides for the payment of CDN $2,000,000 (two million dollars) by TikTok, plus costs reimbursement in the amount of CDN $26,629 in exchange for a full release of all claims against it by the Class. The payment of the settlement amount is not an admission of liability, wrongdoing or fault by TikTok.

A further hearing will be held on January 28, 2022 to seek approval of the Settlement Agreement by the court. The hearing will take place in at 800 Smithe Street, Vancouver, B.C., before the Honourable Justice Edelmann.

If approved, the settlement will be binding on all members of the Class who do not opt out of the proceeding.

The full settlement terms and court documents are available at **[insert website].**

How do I participate?

If you want to be a member of this class action and participate in the settlement, you do not need to do anything. You are automatically included as a member of the Class, unless you opt out of the applicable proceeding.

What if I do NOT want to participate?

If you do **not** want to participate in the class action, you may exclude yourself ("opt-out").

In order to opt out, you must complete and sign an opt out form and deliver it to Class Counsel by mail, courier, or email no later than **[DATE]**. The opt-out form is available at [**insert website**].

Details on how to submit the opt-out form can be found in section 12 of the settlement agreement and the opt-out form.

The opt-out form must be emailed to [**insert email address**], or mailed or couriered to:

Slater Vecchio LLP
1800 - 777 Dunsmuir Street
Vancouver, BC V7Y 1K4
Attention: Sean Tweed, Ryan Matheuszik

Will I receive compensation from this settlement?

No. The settlement agreement provides for cy près donations to be made to The Law Foundation of British Columbia, Canadian Centre for Child Protection, Kids Help Phone, and Boys & Girls Clubs Canada.

What are the fee arrangements?

Under the terms of their retainer agreement with the representative plaintiff, Class Counsel will seek approval of a fee of up to 25% of the settlement amount, plus disbursements and applicable taxes. Class Counsel will also seek payment of up to $1,500 as honourarium for each of the representative plaintiffs.

Class Counsel fees, disbursements and any payments to the representative plaintiffs are subject to court approval.

Objections

All members of the Class have the right to let the court know of any objection they have to the approval of the Settlement Agreement, Distribution Protocol, Class Counsel fees or honorarium to the representative plaintiffs by delivering a letter or written objection to Class Counsel on or before **[DATE]**. If a class member wishes to object, the following information must be included in the letter or written objection delivered to Class Counsel:

(a) The objector's full name, current mailing address, telephone number and email address;
(b) A brief statement of the nature and reasons for the objection;
(c) That the objector is a member of the Class;
(d) Whether the objector intends to appear at the court hearing on their own behalf or through a lawyer, and if by a lawyer, the name, address, telephone number and email address of the lawyer; and
(e) A statement that the foregoing information is true and correct.

For more information or a copy of the Settlement Agreement, go to [**insert website**].

You may also contact Class Counsel at **[email]** or **[toll free number]** or via mail at the address above.

This notice has been authorized by order of the Supreme Court of British Columbia.

SCHEDULE C

[Opt-out Form]

Lisa Thomas v. ByteDance Ltd. et al, SCBC Vancouver Registry No. VLC- S-209073 [*Thomas*]

A.C. an infant by her Litigation Guardian Robert Andrew Cronk v. musical.ly Inc. SCBC Vancouver Registry No. VLC-S-S-193384 [*Cronk*]

By completing this form, you are choosing not to participate in these proceedings or to receive any benefit from it.

If you opt out, you should be aware that there are strictly enforced time limits within which you must take formal legal action to pursue your own claim. By opting out, you will take full responsibility for taking all necessary legal steps to protect your claim.

If you wish to opt out, you must complete, sign, and deliver this opt-out form to Class Counsel by mail, courier, or email no later than **[DATE]**, 2022, along with proof of class membership in the form of your TikTok username. To deliver your opt-out form to Class Counsel, you must email it to **[insert email address]**, or mail or courier it to:

Slater Vecchio LLP
1800 - 777 Dunsmuir Street
Vancouver, BC V7Y 1K4
Attention: Sean Tweed, Ryan Matheuszik

I, _____, (full name) hereby exercise my right to opt out of the class certified in *Thomas* and *Cronk*. I confirm my understanding that I will not receive any benefits under the settlement reached in these proceedings, that I am not represented by Class Counsel, and that I will be responsible for protecting my own interests in relation to the claims asserted in those proceedings.

Date: _____, 2022

Contact information

Address: _____

City: _____

Province: _____

Postal code: _____

Phone number: _____

Email: _____

TikTok username: _____

SCHEDULE D

No. S-209073
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between

LISA THOMAS

PLAINTIFF

and

TIKTOK INC and TIKTOK PTE LTD

DEFENDANTS

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

ORDER MADE AFTER APPLICATION

BEFORE } THE HONOURABLE JUSTICE EDELMANN } ___/____/2022

ON THE APPLICATION of the plaintiff Lisa Thomas coming on for hearing at Vancouver, BC on DATE; and on hearing Mathew P. Good, Kevin McLaren, Saro Turner, Alexia Majidi and Ryan Matheuszik jointly for the plaintiff Lisa Thomas and the plaintiff A.C. by her litigation guardian Robert Cronk in *A.C. an infant by her Litigation Guardian Robert Andrew Cronk v. Musical.ly Inc.* SCBC Vancouver Registry No. VLC-S-S-193384; and Thomas Gelbman and Carla Breadon for the Defendants;

THIS COURT ORDERS that:

1. For the purposes of the Order, except to the extent that they are modified in this Order, the definitions set out in the settlement agreement dated July 13, 2021 ("**Settlement Agreement**"), and attached as **Schedule A** to this Order, apply to and are incorporated into this Order;

2. The Settlement Agreement is fair, reasonable and in the best interests of the Class, including the Subclass;

3. The Settlement Agreement is approved pursuant to section 35 of the *Class Proceedings Act*, and shall be implemented and enforced in accordance with its terms;

4. This Order, including the Settlement Agreement, is binding upon each member of the Class, including those persons who are minors or mentally incapable;

5. This action be and is hereby dismissed against the Defendants with prejudice and without costs against any party;

6. Each member of the Class shall be deemed to irrevocably consent to the dismissal, without costs and with prejudice, of any other action or proceeding relating to the Released Claims against the Releasees and all such actions or proceedings shall be dismissed, without costs and with prejudice, including *A.C. an infant by her Litigation Guardian Robert Andrew Cronk v. Musical.ly Inc.* SCBC Vancouver Registry No. VLC-S-S-193384, upon the Effective Date;

7. Each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims;

8. Each Releasor shall be forever barred and enjoined from continuing, commencing, instituting, maintaining, asserting or prosecuting, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim, litigation, investigation or other proceeding in any court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum, or any other forum, directly, representatively, or derivatively, against any of the Releasees, and/or any other person or third-party who may claim contribution or indemnity or claim over other relief from any Releasee, in respect of any Released Claims. For greater certainty and without limiting the foregoing, the Releasors shall not assert or pursue a Released Claim against any Releasee under the laws of any foreign jurisdiction; and

9. For purposes of administration of the Settlement Agreement and this Order, this Court retains an ongoing supervisory role to administer, supervise, construe and enforce the Settlement Agreement and this Order, subject to the terms and conditions set out in the Settlement Agreement and this Order.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

.....
Signature of

Lawyer for Class

.....
Signature of Thomas Gelbman

Lawyer for the Defendants TikTok Inc and TikTok Pte Inc

By the Court.

.....
Registrar

SCHEDULE E

Distribution Protocol

Cy Près Donation

1. The *Cy Près* Donation will be divided as follows between the following recipients:

    a. The Law Foundation of British Columbia – 50%
    b. Canadian Centre for Child Protection – 16.67%
    c. Kids Help Phone – 16.67%
    d. Boys & Girls Clubs Canada – 16.66%
    (collectively, the "**Recipients**").

2. The Law Foundation of British Columbia will use its share of the *Cy Près* Donation to fund grants for projects in their sole discretion.

3. Canadian Centre for Child Protection, Kids Help Phone and Boys & Girls Clubs Canada will use their share of the *Cy Près* Donation to fund grants for projects in their sole discretion, with a preference given to projects at the intersection of children, technology and privacy.

4. The Recipients should not use more than 10% of each of their shares of the *Cy Près* Donation to fund their administrative overhead.

Exhibit 2

This is Exhibit "B" to the Affidavit of
KEVIN Mc LAREN
sworn (or affirmed) before me at
VANCOUVER, B.C.
this 25 day of OCTOBER 2021.

A Commissioner/Notary Public for the
Province of British Columbia

SETTLEMENT AGREEMENT AND RELEASE

1. PREAMBLE

1.1. This class action Settlement Agreement and Release ("Agreement") is entered into by and among the individuals and entities defined below as "Plaintiffs" and the individuals and entities defined below as "TikTok" where Plaintiffs and TikTok are collectively referred to herein as the "Parties."

1.2. This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims (as the term is defined below), upon and subject to the terms and conditions of this Agreement, and subject to preliminary and final approval of the Court.

2. DEFINITIONS

2.1. "Agreement" means this Settlement Agreement and Release, including all exhibits.

2.2. "Civil Actions" mean all of the civil actions, arbitrations, or other legal proceedings that have been, will be, or could be initiated by Plaintiffs relating to the subject matter at issue in the Complaint.

2.3. "Class" means all persons residing in the United States who registered for or used the Musical.ly and/or TikTok software application prior to the Effective Date when under the age of 13 and their parents and/or legal guardians.

2.4. "Class Counsel" means the attorneys representing Plaintiffs who sign this Agreement as Class Counsel up until such time as the Court appoints counsel to represent the Class; and following such appointment, "Class Counsel" shall mean the counsel so appointed by the Court.

2.5. "Class Member" means any person who qualifies under the definition of the Class, excluding: (i) TikTok, its parent, subsidiaries, successors, affiliates, officers, and directors; (ii) the judge(s) to whom the Civil Actions are assigned and any member of the judges' or judges' immediate family; (iii) Persons who have settled with and released TikTok from individual claims substantially similar to those alleged in the Civil Actions; and (iv) Persons who submit a valid and timely Request for Exclusion.

2.6. "Class Representatives" mean Sherri LeShore and Laura Lopez, acting either individually or through Class Counsel.

2.7. "Complaint" means the draft complaint attached as an exhibit hereto.

2.8. "Court" means the federal District Court for the Northern District of Illinois and any appellate court which may review any orders entered by the District Court related to this Agreement.

2.9. "Day" or "days" refer to calendar days.

2.10. "Effective Date" means the first date after either (i) the time to appeal the Final Order and Judgment has expired with no appeal having been filed or (ii) the Final Order and Judgment is affirmed on appeal by a reviewing court and no longer reviewable by any court.

2.11. "Execution" means the signing of this Agreement by all signatories hereto.

2.12. "Fee Award" means any attorneys' fees, reimbursement of expenses, and other costs awarded by the Court to Class Counsel as allowed by this Agreement.

2.13. "Final Approval Hearing" means the hearing before the Court where (i) the Parties request that the Court approve this Agreement as fair, reasonable, and adequate; (ii) the Parties request that the Court enter its Final Order and Judgment in accordance with this Agreement; and (iii) Class Counsel request approval of their petition for reasonable attorneys' fees and expenses, as well as any requested incentive award to the Class Representatives.

2.14. "Final Order and Judgment" means the order entered by the Court, in a form that is mutually agreeable to the Parties, approving this Agreement as fair, reasonable, adequate, and in the best interest of the Class as a whole, and making such other findings and determinations as the Court deems necessary and appropriate to effectuate the terms of this Agreement, without modifying any terms of this Agreement that either Party deems material.

2.15. "Incentive Award" means any amount awarded by the Court to the Class Representatives as compensation for serving as Class Representatives.

2.16. "Notice Plan" means the planned method by which notice of this Agreement will be given to the Class.

2.17. "Notice of Proposed Class Action Settlement" means the notice described in the Notice Plan.

2.18. "Opt-Out Deadline" means the deadline for a Class Member to submit a Request for Exclusion as set forth in the Preliminary Approval Order and which will be no more than sixty (60) days from the completion date of the Notice of Proposed Class Action Settlement.

2.19. "Parties" means, collectively, the Plaintiffs and TikTok, and "Party" means any one of them.

2.20. "Person" means an individual or legal entity, including an association, or his, her, or its respective estate, successors, or assigns.

2.21. "Plaintiffs" mean the Class Representatives acting on behalf of themselves and all Class Members.

2.22. "Plan of Allocation" means the plan for allocating the Settlement Fund described in this Agreement, or other such plan for allocating the Settlement Fund as may be approved by the Court.

2.23. "Preliminary Approval Order" means the order issued by the Court provisionally (i) granting preliminary approval of this Agreement; (ii) certifying the Class for settlement purposes; (iii) appointing Class Representatives and Class Counsel; (iv) approving the form and manner of the Notice Plan and appointing a Settlement Administrator; (v) establishing deadlines for Requests for Exclusion and the filing of objections to the proposed settlement contemplated by this Agreement; (vi) finding that the Parties have complied with 28 U.S.C. § 1715; and (vii) scheduling the Final Approval Hearing.

2.24. "Released Claims" means any claims, complaints, actions, proceedings, or remedies of any kind (including, without limitation, claims for attorneys' fees and expenses and costs) whether in law or in equity, under contract, tort or any other subject area, or under any statute, rule, regulation, order, or law, whether federal, state, or local, on any grounds whatsoever, arising from the beginning of time through the Effective Date, that were, could have been, or could be asserted by the Releasing Parties arising out of or relating to any acts, facts, omissions or obligations, whether known or unknown, whether foreseen or unforeseen, arising out of or relating to the Civil Actions or the subject matter of the Complaint.

2.25. "Released Parties" means TikTok Inc., Musical.ly Inc., Musical.ly the Cayman Islands corporation, ByteDance Technology Co. Ltd., as well as any and all of their current or former directors, officers, members, administrators, agents, insurers, beneficiaries, trustees, employee benefit plans, representatives, servants, employees, attorneys, parents, subsidiaries, affiliates, divisions, branches, units, shareholders, investors, contractors, successors, predecessors, joint venturers, related entities, assigns, and all other individuals and entities acting on their behalf.

2.26. "Releasing Parties" means Plaintiffs and all Class Members, as well as their present, former, and future heirs, executors, administrators, estates, representatives, agents, attorneys, partners, successors, predecessors-in-interest, directors, officers, members, insurers, beneficiaries, trustees, employee benefit plans, servants, employees, parents, subsidiaries, affiliates, divisions, branches, units, shareholders, investors, contractors, joint venturers, related entities, and assigns, and all other individuals and entities acting on their behalf.

2.27. "Request for Exclusion" means the form that must be completed and returned in the manner and within the time period specified in this Agreement for a Class Member to request exclusion from the Class.

2.28. "Settlement Administrator" means a third-party class action settlement administrator to be selected by the Parties' mutual agreement to implement aspects of this Agreement.

2.29. "Settlement Fund" means the $1,100,000 total sum that TikTok will pay in connection with this Agreement, deposited into a common fund for payment of (i) distributions to Class Members, (ii) the Fee Award, (iii) the Incentive Awards, and (iv) all settlement administration and notice costs.

2.30. "TikTok" means TikTok Inc. and all of its parent and subsidiary corporations and those acting on their behalf.

3. RECITALS

3.1. On June 3, 2019, Class Counsel sent a demand letter and draft complaint to TikTok alleging violations of the privacy rights of the Plaintiffs in connection with the operation of the Musical.ly and TikTok software applications.

3.2. On October 22, 2019, after significant negotiations between the Parties' counsel, the Parties participated in an all-day mediation with Gregory Lindstrom of Phillips ADR that resulted in this Agreement to settle the Civil Actions on a class-wide basis.

3.3. Plaintiffs have conducted meaningful investigation and analyzed and evaluated the merits of the claims made to date against TikTok, and the impact of this Agreement

on Plaintiffs and the Class, and based upon that analysis and the evaluation of a number of factors, and recognizing the substantial risks of continued litigation, including the possibility that the Civil Actions, if not settled now, might not result in any recovery whatsoever for the Class, or might result in a recovery that is less favorable to the Class, and that any such recovery would not occur for several years, Plaintiffs are satisfied that the terms and conditions of this Agreement are fair, reasonable, and adequate, and that this Agreement is in the best interest of the Class.

3.4. TikTok has denied and continues to deny each allegation and all charges of wrongdoing or liability of any kind whatsoever asserted or that could have been asserted in the Civil Actions.

3.5. While Plaintiffs believe these claims possess substantial merit and while TikTok vigorously disputes such claims, without in any way agreeing as to any fault or liability, the Parties have agreed to enter into this Agreement as an appropriate compromise of the Class claims to put to rest all controversy and to avoid the uncertainty, risk, expense, and burdensome, protracted, and costly litigation that would be involved in prosecuting and defending the Civil Actions.

3.6. The Parties therefore agree that, in consideration for the undertakings, promises, and payments set forth in this Agreement and upon the entry by the Court of a Final Order and Judgment approving and directing the implementation of the terms and conditions of this Agreement, the Civil Actions will be settled and compromised upon the terms and conditions set forth below.

4. RESTRICTIONS ON USE OF THIS AGREEMENT

4.1. This Agreement is for settlement purposes only and is entered into as a compromise to avoid the inherent risks and expenses posed by continued litigation of the claims in the Civil Actions. Neither the fact nor content of this Agreement, nor any action based on it, will constitute, be construed as, or be admissible in evidence as an admission of the validity of any claim, of any fact alleged in the Civil Actions or in any other pending or subsequently filed action, or of any wrongdoing, fault, violation of law, or liability or non-liability, wrongdoing, fault, or violation of law or fact alleged in the Civil Actions.

4.2. Subject to approval by the Court, TikTok conditionally agrees and consents to jurisdiction, venue, and certification of the Class for settlement purposes only and within the context of this Agreement only. If this Agreement, for any reason, is not approved or is otherwise terminated, TikTok reserves the right to assert any and all objections and defenses to jurisdiction, venue, certification of a litigation class, or other defenses; and neither this Agreement nor any order or other action relating to this Agreement may be offered as evidence in support of jurisdiction, venue, or class certification for a purpose other than settlement pursuant to this Agreement.

5. SETTLEMENT FUND

5.1. The Settlement Administrator will create an account into which TikTok will deposit the total sum of $1,100,000 for the Settlement Fund within 30 days after entry of the Preliminary Approval Order.

5.2. The Settlement Administrator will place the Settlement Fund in an interest-bearing account created by order of the Court intended to constitute a "qualified settlement fund" ("QSF") within the meaning of Section 1.468B-1 of the Treasury Regulations

("Treasury Regulations") promulgated under the U.S. Internal Revenue Code of 1986, as amended (the "Code"). TikTok shall be the "transferor" to the QSF within the meaning of Section 1.468B-1(d)(1) of the Treasury Regulations with respect to the Settlement Fund or any other amount Transferred to the QSF pursuant to this Settlement Agreement. The Settlement Administrator shall be the "administrator" of the QSF within the meaning of Section 1.468B-2(k)(3) of the Treasury Regulations, responsible for causing the filing of all tax returns required to be filed by or with respect to the QSF, paying from the QSF any taxes owed by or with respect to the QSF, and complying with any applicable information reporting or tax withholding requirements imposed by Section 1.468B-2(l)(2) of the Treasury Regulations or any other applicable law on or with respect to the QSF. TikTok and the Settlement Administrator shall reasonably cooperate in providing any statements or making any elections or filings necessary or required by applicable law for satisfying the requirements for qualification as a QSF, including any relation-back election within the meaning of Section 1.468B-1(j) of the Treasury Regulations.

5.3. Other than the Settlement Fund, TikTok will have no financial obligations to Plaintiffs, the Class, or the Settlement Administrator under this Agreement.

5.4. The Settlement Administrator will draw from the Settlement Fund to cover all obligations with respect to costs related to this Agreement, including the expenses of the Settlement Administrator, the Notice Plan, payments to Class Members, any Incentive Awards, any Fee Award, and any other administrative fees and expenses in connection with this Agreement; provided, however, that the Parties must approve any payments to the Settlement Administrator prior to the Settlement Administrator incurring such expenses.

5.5. If this Agreement is terminated, the Settlement Administrator will return all funds to TikTok within ten (10) days of the termination date; provided, however, that the Settlement Administrator need not return any funds already spent on notice and on reasonable Settlement Administrator expenses before the termination date.

5.6. TikTok, TikTok's Counsel, and the Released Parties shall have no liability, obligation or responsibility with respect to the investment, disbursement, or other administration or oversight of the Settlement Fund or QSF and shall have no liability, obligation or responsibility with respect to any liability, obligation or responsibility of the Settlement Administrator, including but not limited to, liabilities, obligations or responsibilities arising in connection with the investment, disbursement or other administration of the Settlement Fund and QSF.

5.7. Once deposited by TikTok, the Settlement Fund shall be deemed and considered to be in custodia legis of the Court, and shall remain subject to the jurisdiction of the Court until such time as such funds shall be distributed pursuant to the Agreement and/or further order(s) of the Court.

5.8. Notwithstanding any effort, or failure, of the Settlement Administrator or the Parties to treat the Settlement Fund as a QSF, any tax liability, together with any interest or penalties imposed thereon, incurred by TikTok or any Releasees resulting from income earned on the Settlement Fund or the payments made from the Settlement Fund (or the receipt of any payment under this paragraph) shall be reimbursed from the Settlement Fund in the amount of such tax liability, interest or penalties promptly upon and in no event later than five (5) days after TikTok's or any Released Party's written request to the Settlement Administrator.

5.9. For avoidance of doubt, neither TikTok nor any Released Party shall have any liability, obligation, or responsibility whatsoever for tax obligations arising from payments to any Class Member, or based on the activities and income of the QSF. In addition, neither TikTok nor any Released Party shall have any liability, obligation, or responsibility whatsoever for tax obligations arising from payments to Class Counsel. The QSF will be solely responsible for its tax obligations. Each Class Member will be solely responsible for his or her tax obligations. Each Class Counsel attorney or firm will be solely responsible for his, her, or its tax obligations.

5.10. TikTok shall have no liability whatsoever with respect to (i) any act, omission, or determination by Class Counsel or the Settlement Administrator, or any of their respective designees or agents, in connection with the administration of the settlement or otherwise; (ii) the management, investment, or distribution of the Settlement Fund; (iii) the Plan of Allocation; (iv) the determination, administration, or calculation of claims to be paid to Class Members from the Settlement Fund; or (v) the payment or withholding of taxes or related expenses, or any expenses or losses incurred in connection therewith. The Releasing Parties, Class Representatives, and Class Counsel release TikTok from any and all liability and claims arising from or with respect to the administration, investment or distribution of the Settlement Fund.

5.11. No person shall have any claim against Class Representatives, Class Counsel or the Settlement Administrator, or any other person designated by Class Counsel, based on determinations or distributions made substantially in accordance with this Agreement and the settlement contained herein, the Plan of Allocation, or further order(s) of the Court.

6. PLAN OF ALLOCATION

6.1. The Settlement Fund shall be distributed and allocated according to the following preferential order:

6.1.1. To pay all expenses incurred by the Settlement Administrator for the Notice Plan and settlement administration;

6.1.2. To pay any taxes described herein;

6.1.3. After the Effective Date, to allocate funds for any Fee Award and Incentive Awards;

6.1.4. After the Effective Date and after allocation of funds for all of the above, to pay the remaining unallocated portion of the Settlement Fund to Class Members on a pro rata basis in accordance with the Final Approval Order or any subsequent order of the Court;

6.1.5. After payment of all valid claims to Class Members, to pay any Fee Award and Incentive Awards; and

6.1.6. To distribute any residue of the Settlement Fund to a cy pres recipient or other appropriate recipient as may be determined by the Court.

6.2. Settlement Payments to Class Members

6.2.1. Class Members may submit one claim per Class Member to receive by electronic payment a potential pro rata distribution of the Settlement Fund

remaining after payment of Notice Plan and administration expenses, taxes, any Fee Award, and any Incentive Awards.

6.2.2. The method for submitting a claim and for receiving a distribution by electronic payment will be described and provided in the Notice Plan after consultation with the Settlement Administrator.

6.2.3. To submit a claim, Class Members must provide to the Settlement Administrator (i) their name, residential address, and email address; (ii) an attestation confirming they meet the eligibility requirements to be a Class Member; (iii) information sufficient for the Settlement Administrator to make a distribution to the Class Member by the electronic means described in the Notice Plan; and (iv) a statement under penalty of perjury that they have not submitted more than one claim and that the information they submit is true and correct.

6.2.4. Class Members with valid claims who fail to provide sufficient or correct information or fail to submit a valid claim within the time period identified in the Notice Plan relinquish their right to any payment from the Settlement Fund.

6.2.5. The Settlement Administrator shall review all claims to determine their validity. The Settlement Administrator may reject any claim that does not comply in any material respect with the instructions in the Notice Plan; is not submitted by a Class Member; is a duplicate of another claim; is determined to be a fraudulent claim; or is submitted after the deadline for claims. The decision of the Settlement Administrator shall be final as to the determination of the Claimant's recovery.

6.2.6. Late claims may be considered if deemed appropriate by the Settlement Administrator in consultation with Class Counsel, or if ordered by the Court.

6.2.7. Claims of Class Members that are deemed valid shall be paid out to Class Members by the Settlement Administrator beginning 14 days after the Effective Date, or as soon thereafter as is reasonably practical.

6.3. Residue

6.3.1. If the Settlement Administrator determines that after payment of Notice Plan and administration expenses, taxes, any Fee Award, and any Incentive Awards that the Settlement Fund will be insufficient to cover the expense of processing and paying all of the claims received from Class Members; or if after payment of Class Member claims there remains a residue portion of the Settlement Fund that cannot feasibly be distributed on a pro rata basis to Class Members who submitted a claim, the Court may direct the Settlement Administrator to pay the residue to an appropriate cy pres recipient or other recipient as the Court may decide in its discretion.

6.3.2. When any such residue exists, Class Counsel shall promptly submit a request for order to the Court informing the Court of the residue.

7. SUBMISSION FOR PRELIMINARY APPROVAL

7.1. Within 30 days after Execution, Class Counsel will submit this Agreement to the Court and request that the Court enter the Preliminary Approval Order in a form mutually agreed to by the Parties and in compliance with all applicable laws, rules, and orders and local guidelines of the Court.

7.2. Class Counsel will take any acts reasonably necessary to carry out this Agreement's expressed intent.

8. NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

8.1. The Parties shall agree to the Notice Plan before submission of this Agreement for preliminary approval. The specific text and content of the Notice Plan and Notice of Proposed Class Action Settlement will be mutually agreed upon by the Parties, subject to Court approval.

8.2. Because TikTok asserts it has no way to directly contact or identify Class Members, notification will be through a combination of online social media ads and website link.

8.3. TikTok has no obligation to facilitate delivery of the Notice of Proposed Class Action Settlement. For example, TikTok will have no obligation to search and provide information relating to the Class or to send bulk email messages to any Person or group of Persons.

8.4. Within 10 days after the filing of this Agreement with the Court, the Settlement Administrator shall notify the appropriate state and federal officials of this Agreement pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

9. CLASS MEMBERS' RIGHT OF EXCLUSION/INCLUSION

9.1. A Class Member may request exclusion from the Class up until the Opt-Out Deadline. To request exclusion, the Class Member must complete, sign, and mail to the Settlement Administrator a Request for Exclusion, using a form to be agreed on by the Parties. The Request for Exclusion must be signed by the Class Member seeking exclusion under penalty of perjury. The Request for Exclusion must be postmarked on or before the Opt-Out Deadline. Any Person who submits a valid and timely Request for Exclusion shall not be entitled to relief under, and shall not be affected by, this Agreement or any relief provided by this Agreement.

9.2. The Parties shall have the right to challenge the timeliness and validity of any Request for Exclusion. The Court shall determine whether any contested exclusion request is valid.

9.3. Within 10 days after the Opt-Out Deadline, the Settlement Administrator will provide the Parties a list of all Persons who opted out by validly requesting exclusion.

10. OBJECTIONS

10.1. Any Class Member who does not submit a valid and timely Request for Exclusion may object to the fairness, reasonableness, or adequacy of this Agreement. Class Members may not seek to exclude themselves from the Class and submit an objection to this Agreement.

10.2. No later than 21 days before the Final Approval Hearing, any Class Member who wishes to object to any aspect of this Agreement must send to the Settlement Administrator, Class Counsel, and TikTok's counsel, and file with the Court, a written statement of the objection(s). The written statement of the objection(s) must include (i) a detailed statement of the Class Member's objection(s), as well as the specific reasons, if any, for each objection, including any evidence and legal authority the Class Member wishes to bring to the Court's attention and any evidence the Class Member wishes to introduce in support of his/her objection(s); (ii) the Class Member's full name, address and telephone number; and (iii) information demonstrating that the Class Member is entitled to be included as a member of the Class.

10.3. Class Members may raise an objection either on their own or through an attorney hired at their own expense. If a Class Member hires an attorney other than Class Counsel to represent him or her, the attorney must (i) file a notice of appearance with the Court no later than 21 days before the Final Approval Hearing or as the Court otherwise may direct, and (ii) deliver a copy of the notice of appearance on Class Counsel and TikTok's counsel, no later than 21 days before the Final Approval Hearing. Class Members, or their attorneys, intending to make an appearance at any hearing relating to this Agreement, including the Final Approval Hearing, must deliver to Class Counsel and TikTok's counsel, and file with the Court, no later than 21 days before the date of the hearing at which they plan to appear, or as the Court otherwise may direct, a notice of their intention to appear at that hearing.

10.4. Any Class Member who fails to comply with the provisions of the preceding subsections shall waive and forfeit any and all rights he or she may have to appear separately and/or object, and shall be bound by all the terms of this Agreement and by all proceedings, orders, and judgments in the Civil Actions.

11. RELEASES; EXCLUSIVE REMEDY; DISMISSAL OF ACTIONS

11.1. Upon entry of the Final Order and Judgment, and regardless of whether any Class Member executes and delivers a written release, each Plaintiff and each Class Member (each of whom is a Releasing Party) shall be deemed to waive, release and forever discharge TikTok and the Released Parties from all Released Claims. No Released Party will be subject to any liability or expense of any kind to any Releasing Party with respect to any Released Claim.

11.2. Upon entry of the Final Order and Judgment, the Releasing Parties, and each of them, will be deemed to have, and will have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

11.3. Upon entry of the Final Order and Judgment, the Releasing Parties, and each of them, will be deemed to have, and will have, waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, or the law of any jurisdiction outside of the United States,

which is similar, comparable or equivalent to Section 1542 of the California Civil Code. Plaintiffs acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of this release, but that it is their intention to finally and forever to settle and release the Released Claims, notwithstanding any unknown claims they may have.

11.4. This Agreement shall be the sole and exclusive remedy for any and all Released Claims. Upon entry of the Final Order and Judgment, each Class Member shall be barred from initiating, asserting, or prosecuting any Released Claims against the Released Parties.

11.5. Upon entry of Final Order and Judgment, the Civil Actions shall be dismissed with prejudice.

12. CLASS COUNSEL FEES AND COSTS AND INCENTIVE AWARDS

12.1. Plaintiffs may apply to the Court seeking a reasonable portion of the Settlement Fund as payment of any reasonable attorneys' fees and costs (the Fee Award) and any Incentive Award in recognition of the Class Representatives' efforts on behalf of the Class as appropriate compensation for their time and effort expended in serving the Class.

12.2. Class Representatives may seek an aggregate Incentive Award totaling no more than $5,000 to be divided equally among them.

12.3. This Agreement contains no rights and restrictions regarding Class Counsel's application for a Fee Award beyond the right to seek a reasonable fee award.

12.4. It is not a condition of this Agreement that any particular amount of attorneys' fees, costs or expenses or incentive awards be approved by the Court, or that such fees, costs, expenses or awards be approved at all. Any order or proceeding relating to the amount of any award of attorneys' fees, costs, or expenses or inventive awards, or any appeal from any order relating thereto, or reversal or modification thereof, shall not operate to modify, terminate or cancel this Agreement, or affect or delay the finality of the Final Order and Judgment, except that any modification, order or judgment cannot result in TikTok's overall obligation exceeding the agreed-upon amount of the Settlement Fund.

12.5. The Settlement Administrator shall pay the Fee Award and Incentive Awards that have been allocated from the Settlement Fund as soon as is reasonably practical after payment of all valid claims by Class Members.

12.6. Except as otherwise provided in this section, each Party will bear its own costs, including attorneys' fees, incurred in connection with the Civil Actions.

13. TERMINATION OF THE AGREEMENT

13.1. The performance of this Agreement is expressly contingent upon achieving the Effective Date. This includes both (i) the entry of the Preliminary Approval Order approving this Agreement, including the Notice Plan, and the Final Order and Judgment approving this Agreement and the expiration of all appeal periods and appeal rights without modification to the Final Order and Judgment that any Party deems material. If the Court fails to issue either (1) the Preliminary Approval Order or (ii) the Final Order and Judgment approving this Agreement without modification

that any Party deems material following conclusion of the Final Approval Hearing, this Agreement will be deemed terminated.

13.2. If the Final Order and Judgment is vacated or reversed by a reviewing court in whole or in part in any manner that prohibits subsequent approval of the Agreement without material modification, this Agreement will be deemed terminated (except with respect to rulings on any Fee Award), unless all Parties who are adversely affected thereby, in their sole discretion within thirty (30) days of receipt of such ruling, provide written notice to all other Parties of their intent to proceed with this Agreement as modified.

13.3. If this Agreement is deemed terminated by refusal of the Court to approve or affirm approval of the Agreement, it will have no force or effect whatsoever, shall be null and void, and will not be admissible as evidence for any purpose in any pending or future litigation in any jurisdiction.

13.4. Upon termination of the Agreement for any reason, unless otherwise agreed to in writing by the Parties, Plaintiffs and Class Counsel shall dismiss the Civil Actions filed by them without prejudice and will only refile such causes of action in a venue that is both proper and convenient for litigation purposes, taking into account the convenience of parties and witnesses who would be affected by the litigation.

14. CONFIDENTIALITY

14.1. Other than responses to inquiries from governmental entities or as necessary to comply with federal and state tax and securities laws or comply with the terms of this Agreement, no Party shall initiate any publicity relating to or make any public comment regarding this Agreement until a motion seeking the Preliminary Approval Order is filed with the Court.

14.2. Unless and until all Parties execute this Agreement and present it to the Court in a motion seeking the Preliminary Approval Order, the Parties agree that all terms of this Agreement will remain confidential and subject to Federal Rule of Evidence 408.

15. ENFORCEMENT OF THE AGREEMENT

15.1. The Court will retain jurisdiction to enforce the terms of this Agreement, and all Parties hereto submit to the jurisdiction of the Court for and only for purposes of implementing and enforcing the settlement embodied in this Agreement. As part of its continuing jurisdiction, the Court may amend, modify or clarify orders issued in connection with this settlement upon good cause shown by a party. No other court or tribunal will have any jurisdiction over claims or causes of action arising under this Agreement.

15.2. This Agreement will be governed by and construed in accordance with the internal laws of the State of California without regard to conflicts of law principles that would direct the application of the laws of another jurisdiction.

15.3. The prevailing party in any action or proceeding in which is asserted a claim or cause of action arising under this Agreement will be entitled to recover all reasonable costs and attorneys' fees incurred in connection with the action or proceeding.

16. MISCELLANEOUS

16.1. This Agreement, including all attached exhibits, shall constitute the entire agreement among the Parties (and covering the Parties and the Class) with regard to the subject matter of this Agreement and shall supersede any previous agreements and understandings between the Parties.

16.2. This Agreement may not be changed, modified or amended except in writing signed by Class Counsel and TikTok's counsel, subject to Court approval if required.

16.3. Each Party represents and warrants that it enters into this Agreement of his, her, or its own free will. Each Party is relying solely on its own judgment and knowledge and is not relying on any statement or representation made by any other Party or any other Party's agents or attorneys concerning the subject matter, basis, or effect of this Agreement.

16.4. This Agreement has been negotiated at arm's length by Class Counsel and TikTok's counsel. In the event of any dispute arising out of this Agreement, or in any proceeding to enforce any of the terms of this Agreement, no Party shall be deemed to be the drafter of this Agreement or of any particular provision or provisions, and no part of this Agreement shall be construed against any Party on the basis of that Party's identity as the drafter of any part of this Agreement.

16.5. The Parties agree to cooperate fully and to take all additional action that may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.

16.6. This Agreement shall be binding upon and inure to the benefit of all the Parties and Class Members, and their respective representatives, heirs, successors, and assigns.

16.7. The headings of the sections of this Agreement are included for convenience only and shall not be deemed to constitute part of this Agreement or to affect its construction.

16.8. Prior to pursuing relief or submitting any dispute relating to this Agreement or the Civil Actions to the Court, the Parties and Class Counsel agree to mediate the dispute before Gregory P. Lindstrom in San Francisco, California.

16.9. Any notice, instruction, court filing, or other document to be given by any Party to any other Party shall be in writing and delivered personally or sent by registered or certified mail, postage prepaid, or overnight delivery service to the respective representatives identified below or to other recipients as the Court may specify. As of the date of this Agreement, these respective representatives are as follows:

For the Class:

Gary E. Mason
WHITFIELD BRYSON & MASON LLP
5101 Wisconsin Ave., NW, Ste. 305
Washington, DC 20016
Phone: 202.640.1160
Fax: 202.429.2294
gmason@wbmllp.com

For TikTok:

Anthony J Weibell
WILSON SONSINI GOODRICH & ROSATI, P.C.
650 Page Mill Road
Palo Alto, CA 94304-1050
aweibell@wsgr.com

16.10. The Parties each represent and warrant that they have not sold, assigned, transferred, conveyed, subrogated, or otherwise disposed of any claim or demand covered by this Agreement. If a Class Member has sold, assigned, transferred, conveyed, subrogated or otherwise disposed of any claim or demand, the Person that acquired such claim or demand is bound by the terms of this Agreement to the same extent as the Class Member would have been but for the sale, assignment, transfer, conveyance, or other disposition.

16.11. The respective signatories to this Agreement each represent that they are fully authorized to enter into this Agreement on behalf of the respective Parties.

16.12. The waiver by one Party of any breach of this Agreement by any other Party will not be deemed as a waiver of any other prior or subsequent breaches of this Agreement.

16.13. All of the Exhibits to this Agreement are material and integral parts thereof and are fully incorporated herein by this reference.

16.14. This Agreement may be executed in one or more counterparts, and may be executed by facsimile or electronic signature. All executed counterparts and each of them will be deemed to be one and the same instrument.

16.15. This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto and the Released Parties.

[SIGNATURES ON FOLLOWING PAGE]

THIS SETTLEMENT AGREEMENT AND RELEASE IS AGREED TO AND APPROVED BY:

Plaintiffs and Class Representatives

DocuSigned by:
0364D37BB51A4EF...
Sherri LeShore

11/18/2019
Date

DocuSigned by:
33AD8220B48742E...
Laura Lopez

11/18/2019
Date

Class Counsel

DocuSigned by:
F83A1CDD90D44FC...
Gary E. Mason
WHITFIELD BRYSON & MASON LLP

11/19/2019
Date

DocuSigned by:
B34E26A111924A9...
Gary M. Klinger
KOZONIS & KLINGER, LTD.

11/19/2019
Date

TikTok Inc.

Vanessa Pappas
General Manager, North America & Australia

Date

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THIS SETTLEMENT AGREEMENT AND RELEASE IS AGREED TO AND APPROVED BY:

Plaintiffs and Class Representatives

Sherri LeShore _____ Date _____

Laura Lopez _____ Date _____

Class Counsel

Gary E. Mason _____ Date _____
WHITFIELD BRYSON & MASON LLP

Gary M. Klinger _____ Date _____
KOZONIS & KLINGER, LTD.

TikTok Inc.

Vanessa Pappas _____ 11/19/2019
General Manager, North America & Australia Date

This is Exhibit "C" to the Affidavit of
KEVIN McLAREN
sworn (or affirmed) before me at
VANCOUVER, B.C.
this 25 day of OCTOBER 2021.

A Commissioner/Notary Public for the
Province of British Columbia

Michael Erdle

400 – 150 York Street
Toronto, ON M5H 3S5
Michael.Erdle@practicalresolutions.ca
416-941-8258

Practical Resolutions Inc.
turning conflict into opportunities

Facilitator
Chartered Mediator (C.Med)
Chartered Arbitrator (C.Arb)
Fellow, Chartered Institute of Arbitrators (F.C.I.Arb.)

Michael Erdle founded Practical Resolutions Inc. in 2011, to help parties resolve business, technology, intellectual property and commercial disputes in an efficient, cost-effective way, through facilitated negotiation, mediation and arbitration.

Michael is one of Canada's most experienced and qualified commercial dispute resolution professionals.

Since 2005, he has successfully mediated resolutions in shareholder and joint venture matters, computer software development and implementation projects, copyright, trademark, patent and trade secret disputes. He has acted as sole arbitrator in cases involving ownership of intellectual property, software licensing, system implementation, and other commercial and contract issues. He has acted as mediator/arbitrator in several matters.

Michael has more than 25 years' experience as a commercial lawyer, specializing in technology and intellectual property. He has negotiated countless agreements and assisted clients in resolving a wide variety of commercial disputes. He is a trained and experienced facilitator, mediator and arbitrator.

Michael is a director of the ADR Institute of Ontario and the ADR Institute of Canada. He is a past president of the Intellectual Property Institute of Canada, a past director of the Canadian IT Law Association and a past chair of the Toronto Computer Lawyers Group. Michael has written and spoken on many current issues in technology and intellectual property law. He has lectured at Osgoode Hall Law School and McGill University. He currently teaches a course in "Powerful Negotiation Skills" at University of Toronto School of Continuing Studies.

Areas of Expertise

Information Technology
- Outsourcing
- Managed Services
- Electronic Commerce
- Software Development
- Software Licensing
- Data Licensing
- Distribution
- Internet Products & Services
- Research and Development

Business Disputes
- Media and Entertainment
- Franchising
- Joint Ventures
- Contract Disputes
- Shareholder Disputes
- Partnership Disputes
- Licensing
- Financing

Intellectual Property
- Copyright
- Industrial Designs
- Patents
- Trademarks
- Trade Secrets

Privacy
- Personal Privacy Rights
- Access to Information
- Personality Rights

Professional Recognition

Best Lawyers in Canada®, – Alternative Dispute Resolution, Technology Law
Canadian Legal Lexpert® Directory – Leading Practitioner, Computer & IT Law
Lexpert / American Lawyer Guide to the Leading Lawyers in Canada – Technology Transactions
IAM 250: The World's Leading Patent and Technology Licensing Lawyers
Who's Who Legal Canada – Internet & E-Commerce
The International Who's Who of Internet, e-Commerce & Data Protection Lawyers

Selected Mediation and Arbitration Experience; Panels

- Interim Arbitrator in application for urgent interim relief
- Mediator/arbitrator in telecommunications contract dispute
- Sole Arbitrator/Mediator in computer system implementation case; settled by mediation
- Sole Arbitrator in film distribution dispute
- Sole Arbitrator in international software development and distribution dispute
- Sole Arbitrator in hardware and software distribution dispute
- Sole Arbitrator in software development dispute
- Sole Arbitrator in software and system development and implementation disputes
- Sole Arbitrator in software ownership dispute
- Mediator in technology licensing disputes
- Mediator in trademark infringement and "passing-off" cases
- Mediator in patent ownership dispute
- Mediator in copyright ownership and infringement disputes
- Mediator in software development and implementation disputes
- Mediator in Internet web portal development and implementation dispute
- Mediator in joint venture, shareholder and partnership disputes
- World Intellectual Property Organization (WIPO) Arbitration and Mediation Center List of Neutrals
- IP Neutrals of Canada (intellectual property mediation and arbitration service)
- International Trademark Association (INTA) Trademark Neutrals Network
- Roster Arbitrator, Independent Film and Television Alliance Arbitration Panel

Mediation and Arbitration Training

Advanced Mediation Workshop
World Intellectual Property Organization
Arbitration and Mediation Center
Geneva, Switzerland

Advanced Mediation Course
Stitt Feld Handy &
University of Windsor Law School
Toronto, Ontario

International Commercial Arbitration
(Accelerated Path to Fellowship)
Chartered Institute of Arbitrators

Intensive IP Arbitration Course
Canadian Bar Association & ADR Institute of Canada

Alternative Dispute Resolution
Osgoode Hall Law School, Toronto, Ontario

Professional Associations

Director, ADR Institute of Ontario
Ontario Director, ADR Institute of Canada

Past Director, Canadian IT Law Association

Canadian Bar Association
Member, National IP Section

Ontario Bar Association
Member, Technology and Intellectual Property Section

Member, Licensing Executives Society

Member, Information Technology Association of Canada

Fellow, Chartered Institute of Arbitrators

Member, Toronto Commercial Arbitration Society

Member, IP Neutrals of Canada

Member, INTA Trademark Neutrals Network

Past-President and Fellow,
Intellectual Property Institute of Canada
Member, IPIC ADR Committee
Past Chair, IPIC Domain Names Committee

Past Chair, Toronto Computer Lawyers' Group

Member, International Technology Law Association

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SUPREME COURT
OF
BRITISH COLUMBIA
SEAL
05-Jul-21

Vancouver
REGISTRY

No. VLC-S-S-193384
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

A.C., an infant by her Litigation Guardian ROBERT ANDREW CRONK

Plaintiff

AND:

MUSICAL.LY INC., MUSICAL.LY AND BYTEDANCE TECHNOLOGY CO. LTD

Defendant

Brought under the Class Proceedings Act, R.S.B.C. 1996, c. 50

CONSENT ORDER

BEFORE) A MASTER OF THE COURT) 02 - JUL - 2021

ON THE APPLICATION of the parties, without a hearing and by consent:

THIS COURT ORDERS that:

1. The filing deadlines in the withing proceeding are stayed pending further agreement or order of the Court.

2. There shall be no costs in respect of the granting of this Consent Order.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS NOTED ABOVE:

Kevin McLaren
Lawyer for the plaintiff,
A.C., an infant by her Litigation Guardian
ROBERT ANDREW CRONK

This is Exhibit "D" to the Affidavit of
KEVIN McLAREN
sworn (or affirmed) before me at
VANCOUVER, B.C.
this 25 day of OCTOBER 2021.

A Commissioner/Notary Public for the
Province of British Columbia

Digitally signed by
Vos, T

BY THE COURT

Digitally signed by
Wong, Jonathan

Endorsement Enclosed

Registrar

T. Gelbman

Thomas Gelbman
Lawyer for the defendant,
TikTok Inc. formerly known as
MUSICAL.LY INC.