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18 UNITED STATES DISTRICT COURT
19 CENTRAL DISTRICT OF CALIFORNIA

20 UNITED STATES OF AMERICA,
 21 Plaintiff,
 22 v.
 23 MUSICAL.LY, a corporation; and
 24 MUSICAL.LY, INC., a corporation,
 25 Defendants.
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Case No. 2:19-cv-1439

**COMPLAINT FOR CIVIL
PENALTIES, PERMANENT
INJUNCTION, AND OTHER
EQUITABLE RELIEF**

1 Plaintiff, the United States of America, acting upon notification and on behalf of
2 the Federal Trade Commission (“FTC” or “Commission”), for its Complaint alleges that:

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1 affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

2 6. Among other things, the COPPA Rule applies to any operator of a commercial
3 website or online service directed to children that collects, uses, and/or discloses personal
4 information from children, and to any operator of a commercial website or online service
5 that has actual knowledge that it collects, uses, or discloses personal information from
6 children. 16 C.F.R. § 312.2(b)(1)(i).

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1 DEFENDANTS

2 8. Defendant Musical.ly is a Cayman Islands corporation, with its principal place
3 of business in Shanghai, China. In December 2017, Musical.ly was acquired by
4 ByteDance Ltd. Musical.ly transacts or has transacted business in this district and
5 throughout the United States. At all times material to this Complaint, acting alone or in
6 concert with others, Musical.ly purposefully directed its activities to the United States by
7 advertising, marketing, and distributing mobile applications intended for use by
8 consumers throughout the United States. At all times material to this Complaint, acting
9 alone or in concert with Defendant Musical.ly, Inc., Musical.ly formulated, directed,
10 controlled, had the authority to control, or participated in the acts and practices set forth
11 in this Complaint.

12 9. Defendant Musical.ly, Inc. is a California corporation with its principal place
13 of business in Santa Monica, California, and is a wholly owned subsidiary of Musical.ly.
14 Musical.ly, Inc. transacts or has transacted business in this district and throughout the
15 United States. At all times material to this Complaint, acting alone or in concert with
16 others, Musical.ly, Inc. has advertised, marketed, and distributed mobile applications
17 intended for use by consumers throughout the United States. At all times material to this
18 Complaint, acting alone or in concert with Defendant Musical.ly, Musical.ly, Inc.
19 formulated, directed, controlled, had the authority to control, or participated in the act
20 and practices set forth in this Complaint.

21 10. The Plaintiff's claims against Musical.ly, Inc. and Musical.ly, Inc. are set forth in the
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1 have the option to set their accounts to “private” so that only approved followers can
2 view their videos; however, users’ profiles, including usernames, profile pictures and
3 bios, remain public and searchable by other users.

4 17. The App also allows users to send direct messages to communicate with other
5 users. These direct messages can include colorful and bright emoji characters ranging
6 from animals, smiley faces, cars, trucks, and hearts, among many others. By default, a

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1 22. In December 2016, a third party publicly alleged in an interview with the co-
2 founder of Musical.ly, Inc. that seven users whose accounts were among the most popular
3 in terms of followers appeared to be children under 13. Shortly thereafter, Defendants
4 then reviewed its most popular users and determined an additional 39 appeared to be
5 under 13. In February 2017, Defendants sent messages to these 46 users' email addresses
6 telling users under 13 to edit their profile description to indicate that their accounts were

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1 by targeting children as one audience, and had actual knowledge they collected all personal
2 information from children, they are subject to the COPPA Rule.

3 VIOLATIONS OF THE CHILDREN'S ONLINE PRIVACY PROTECTION RULE

4 30. As described in Paragraphs 25 through 28, Defendants are "operators"
5 subject to the COPPA Rule.

6 31. In numerous instances, in conjunction with the acts and practices described
7 above, Defendants collected and used personal information from children younger than
8 age 13 in violation of the Rule by:

- 9 a. Failing to provide notice on their website or online service of the
10 information they collect online from children, how they use such
11 information, and their disclosure practices, among other required content
12 in violation of Section 312.4(d) of the Rule, 16 C.F.R. § 312.4(d);
- 13 b. Failing to provide direct notice to parents of the information they col
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1 unfair or deceptive act or practice or affecting commerce, in violation of Section 5(a)
2 of the FTC Act, 15 U.S.C. § 45(a).

3 THE COURT'S POWER TO GRANT RELIEF

4 33. Defendants violated the Rule as described above with the knowledge
5 required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

6 34. Each collection, use, or disclosure of a child's personal information in which
7 Defendants violated the Rule in one or more of the ways described above constitutes a
8 separate violation for which Plaintiff seeks monetary civil penalties.

9 35. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified
10 by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. §
11 2461, the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,
12 Public Law 11474, sec701, 129 Stat. 599 (2015), and Section 1.98(d) of the FTC's
13 Rules of Practice, 16 C.F.R. § 1.98(d), authorizes this Court to award monetary civil
14 penalties of not more than \$41,484 for each violation of the Rule after January 22, 2018.

15 36. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to
16 grant injunctive and such other relief as the Court may deem appropriate to halt and
17 redress violations of any provision of law enforced by the FTC. The Court, in the
18 exercise of its equitable jurisdiction, may award ancillary relief to prevent and remedy
19 any violation of any provision of law enforced by the FTC.

20 PRAYER FOR RELIEF

21 Wherefore, Plaintiff, the United States of America, pursuant to ~~5(6)(1)~~,
22 5(m)(1)(A), 13(b) and 16(a) of the FTC Act, 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b)
23 and 56(a), and the Court's own equitable powers, requests that the Court:

- 24 A. Enter a permanent injunction to prevent future violations of the COPPA Rule
25 by Defendants;
- 26 B. Award Plaintiff monetary civil penalties from Defendants for each violation of
27 the Rule alleged in this Complaint; and

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