

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

TIKTOK INC., et al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, et al.,

Defendants.

Case No. 20-cv-02658 (CJN)

Oral Argument Requested

**PLAINTIFFS' APPLICATION FOR A PRELIMINARY INJUNCTION AND REQUEST
FOR EXPEDITED BRIEFING AND A HEARING**

Plaintiffs TikTok, Inc. and ByteDance Ltd. (collectively "Plaintiffs"), by and through their undersigned counsel, hereby move this Court, pursuant to Rule 65 of the Federal Rules of Civil Procedure and Local Rule 65.1, for a preliminary injunction against Defendants Donald J. Trump, in his official capacity as President of the United States; Wilbur L. Ross, Jr., in his official capacity as Secretary of Commerce; and the U.S. Department of Commerce.

For the reasons set forth in the accompanying Memorandum in Support and the declarations and exhibits attached hereto, Plaintiffs are entitled to preliminary injunctive relief enjoining the implementation or enforcement of the executive order issued on August 6, 2020, 85 Fed. Reg. 48,637 ("August 6 order"), as well as the list of prohibited transactions, which the Department of Commerce issued on September 18, 2020, subsequently withdrew, and re-issued on September 22, 2020, and which will be published in the Federal Register on September 24, 2020, U.S. Dep't of Commerce, *Identification of Prohibited Transactions to Implement Executive Order 13942 and Address the Threat Posed by TikTok and the National Emergency with Respect to the Information and Communications Technology and Services Supply Chain*

(Sept. 22, 2020), <https://www.federalregister.gov/documents/2020/09/24/2020-21193/identification-of-prohibited-transactions-to-implement-executive-order-13942-and-address-the-threat> (“Prohibitions”). The August 6 order and the Prohibitions violate the International Emergency Economics Powers Act, 50 U.S.C. §§ 1701–1706, the Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*, the First and Fifth Amendments to the U.S. Constitution, and constitute *ultra vires* executive action. In the absence of preliminary injunctive relief, the August 6 order and the Prohibitions will cause Plaintiffs irreparable harm, and the equities and public interest weigh in Plaintiffs’ favor. Accordingly, Plaintiffs are entitled to relief. A proposed Order also accompanies the motion.

Pursuant to Local Rule 65.1(d), the Plaintiffs respectfully request expedited briefing and a hearing on this motion. The Prohibitions issued on September 22, 2020 are scheduled to take effect at 11:59 pm on September 27, 2020. As explained in the accompanying Memorandum in Support, as a consequence of the Prohibitions, TikTok will no longer be available on the U.S. app stores as of 11:59 pm on September 27, 2020, which will inflict direct, immediate, and irreparable harm on Plaintiffs during the pendency of this case.

For these reasons, Plaintiffs request an expedited briefing schedule and hearing in this matter. Plaintiffs respectfully request that the Court enter the following schedule:

- Defendants to file a response, if any, to Plaintiffs’ Motion for Preliminary Injunction no later than 2:30 pm on September 25, 2020;
- Plaintiffs to file a reply, if any, no later than 2:30 pm on September 26, 2020;
- The Court to hold a hearing via teleconference or video conference as soon thereafter as possible and provide a ruling before 11:59 pm on September 27, 2020.

Pursuant to Local Rule 7(m), counsel for Plaintiffs consulted with counsel for Defendants on September 23, 2020 at approximately 1:30 pm and sought Defendants' consent for expedited treatment of the motion in advance of filing the request. Plaintiffs have not yet received Defendants' response.

DATED: September 23, 2020

Respectfully submitted,

/s/ John E. Hall

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CERTIFICATE OF SERVICE

I, John E. Hall, hereby certify that on the 23rd day of September, 2020, a true and correct copy of the foregoing was filed on the Court's CM/ECF filing system, and was served via FedEx

Priority Overnight delivery to the following:

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And via email to the following:

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