UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TIKTOK INC.
Petitioner,

v.

CELLSPIN SOFT, INC.,
Patent Owner

IPR2024-00767
Patent 11,659,381

PETITIONER'S SUPPLEMENTAL BRIEF IN RESPONSE TO THE DIRECTOR'S JANUARY 23, 2026 ORDER AUTHORIZING BRIEFING

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Patent Owner's attempt to put Petitioner's RPI identification into dispute is both untimely and misguided. The Director has asked about what effect, if any, the creation of a joint venture (that was established in compliance with the Executive Order signed by President Trump on September 25, 2025) has on these proceedings. The creation of the joint venture helps to further dispel Patent Owner's wholly unsupported argument that TikTok Inc. should have listed the Chinese Communist Party as a real-party-in-interest.

I. Patent Owner's Proferred "Evidence" Was Not Sufficient To Put Petitioner's RPI Identification Into Dispute

Petitioner TikTok Inc. named the correct RPIs in this proceeding and Patent Owner has not offered sufficient evidence to put that RPI identification into dispute. Patent Owner's sole RPI challenge is premised on its entirely unsupported allegation that the Chinese Communist Party ("CCP") "exercises pervasive control over TikTok via TikTok's parent ByteDance. This makes the CCP a clear beneficiary of the present IPR." IPR2024-00757, Paper 22 at 6-7. Yet Patent Owner does **not** contend that the CCP was involved in (1) the decision to file these IPRs, (2) the selection of prior art, or (3) the crafting of the patentability arguments raised. There is no allegation that it had any "degree of involvement in the filing[s]" whatsoever. *Corning Optical Commc'ns RF, LLC v. PPC Broadband, Inc.*, IPR2014-00440, Paper 68 at 14 (PTAB Aug. 18, 2015) (precedential except as to § II.E.1). Moreover,

Patent Owner never claims that the CCP played any role in funding these IPRs, that its officers were involved in the retention or management of counsel, *cf. id.* at 17-22, or that the CCP was ever aware of, let alone desired, *inter partes* review of these particular patents. *See* Consolidated Trial Practice Guide, 14 (Nov. 2019) ("[A]t a general level, the 'real party-in-interest' is the party that desires review of the patent.").

Nor does Patent Owner claim that TikTok Inc. (or any of its direct or indirect parents) is a "state-owned enterprise," is a "designated entity on the Bureau of Industry and Security's (BIS) Entity List," or is "violating U.S. export controls." *Yangtze Memory Technologies Company, Ltd. v. Micron Technology, Inc.*, IPR2025-00098, -00099, Paper 38 at 1, 6-7 (Director Jan. 15, 2026) (informative) ("*YMTC*"). Instead, Patent Owner alleges that, merely because TikTok Inc.'s ultimate holding company, Bytedance Ltd. is a corporation allegedly "headquartered in Beijing, China"[1], it is a company subject to "mandatory cooperation" with the CCP, such that the CCP could speculatively and hypothetically exert indirect influence on TikTok Inc. "to invalidate U.S. patents as part of a broader state-sponsored industrial policy." IPR2024-00757, Paper 22 at 2-7. This is rank speculation.

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[1] This is incorrect. Bytedance Ltd. is a non-operating holding company incorporated in the Cayman Islands.

Indeed, Patent Owner does not suggest that, or substantiate claims that, the CCP exerted control over—***or even has any interest in***—these proceedings. Patent Owner's argument misses the mark, as it fails to address the "key to a real party-in-interest inquiry[,] the relationship between the potential unnamed real party-in-interest ***and the proceeding***," which is neither alleged or proven by Patent Owner. *Hughes Network Sys. v. Calif. Inst. of Tech*., IPR2015-00059, Paper 42 at 11 (PTAB April 21, 2016) (emphasis added). The mere allegation of generalized corporate influence is insufficient to turn an entity into an RPI—absent some evidence suggesting influence over ***these proceedings***. Patent Owner has provided none.

Moreover, there is no evidence that the CCP would "benefit from having [Patent Owner's patent] claims canceled or invalidated." *Applications in Internet Time, LLC v. RPX Corp*., 897 F.3d 1336, 1348 (Fed. Cir. 2018). After Patent Owner filed its patent infringement lawsuit charging the TikTok platform with infringement, TikTok Inc. was clearly the party that "desired review" of the patents in order to lift the cloud of infringement over its product. Consolidated Trial Practice Guide, 14 (Nov. 2019) (stating that the RPI inquiry asks who "desires review of the patent."). Patent Owner does not allege that the CCP "desires review" of Patent Owner's patents. There is no assertion that the CCP will be or has been threatened with an infringement suit by Patent Owner. Indeed, Patent Owner admitted that the CCP is not a party in the related litigation. EX2023, 20:11-20, 25:21-25. Nor is there

any assertion that the CCP has attempted to challenge Patent Owner's patents in a prior AIA proceeding or has any interest in invalidating the patents. Nor would the record support any such assertions.

The remainder of Patent Owner's argument and evidence focus on purported national security concerns over the control of data associated with the TikTok platform. IPR2024-00757, Paper 22 at 3-7. However, Patent Owner's reference to Congressional concerns over data handling prior to the joint venture also is insufficient to raise an RPI issue because, among other things, the concerns are wholly unrelated to the technology at issue in these proceedings.

In *YMTC*, the Patent Owner—a major U.S. semiconductor manufacturer—presented particularized evidence that the Chinese government "sets policy for, and controls [the relevant industry]," to "play[] a key part in 'shifting control of global microelectronics' to foreign governments." IPR2025-00098, -00099, Paper 38 at 6-7. Patent Owner here, in contrast, does not contend, let alone provide evidence, that the CCP has any specific geopolitical interest in the multimedia publishing methods described in Patent Owner's patents that could give rise to an inference that the CCP was an animating force behind the IPRs (which challenge claims to "automatic multimedia upload for publishing data and multimedia content"). *See generally* IPR2024-00757, Paper 22; Exhibit 1001. The simple fact is that these IPRs were filed purely as a defensive measure against Patent Owner's claims for monetary

damages.

There is also no allegation that permitting these petitions to proceed would unfairly cause any "harassment" or give any party "'two bites at the apple' by allowing such parties to avoid either the estoppel provision or the time-bar." *Cf. RPX Corp. v. Applications in Internet Time, LLC*, IPR2015-01750, Paper 128 at 9 (PTAB Oct. 2020) (precedential).

Finally, Patent Owner's challenge was untimely as the various well-known government reports, hearings, and judicial opinions on which it relies were not timely presented. IPR2024-00757, Paper 33 at 3-8; *Corning Optical*, IPR2014-00440, Paper 68 at 11-13 (reaffirming the timeliness requirement for raising RPI issues).

II. TikTok USDS Joint Venture LLC Dispels Patent Owner's Wholly Unsupported Arguments About Operational Control Of The TikTok Platform

Patent Owner's argument was premised on its assertion, with zero evidence, that the CCP exercises "pervasive control" over TikTok Inc.'s ultimate parent Bytedance Ltd., IPR2024-00757, Paper 22 at 6-7, and, by extension, could theoretically influence those controlling the TikTok platform. The creation of the TikTok USDS Joint Venture LLC ("Joint Venture") further dispels any claim of such alleged control by the CCP. The Bytedance entities own less than 20% of the Joint Venture. The majority is owned by American entities.

Indeed, the transaction that resulted in the creation of the Joint Venture was presented to President Trump, who, after "consultation with the National Security Council, the Office of Science and Technology Policy, the Department of the Treasury, the Department of Justice, the Department of Commerce, and the Office of the Director of National Intelligence" definitively "determined" that the transaction "resolves the[] national security concerns" by "preclud[ing]" any "operational relationship" between Bytedance entities and the new Joint Venture. Exec. Order No. 14352, 90 Fed. Reg. 47219, 47220 (Sept. 25, 2025). The President further determined that the Joint Venture resolves concerns regarding "the control of a foreign adversary . . . because, among other things, the new joint venture [is] based in the United States and less than 20 percent of the joint venture [is] owned or controlled by foreign entities." *Id.*

On January 22, 2026, the new Joint Venture was "established in compliance with the Executive Order signed by President Trump on September 25, 2025." https://newsroom.tiktok.com/announcement-from-the-new-tiktok-usds-jointventure-llc?lang=en. In conformance with the Order, Bytedance retains a 19.9% interest in the Joint Venture, *id.*, which, as President Trump determined, is not enough for there to be an "operational relationship" between Bytedance entities and the new Joint Venture that is sufficient for Bytedance to exercise control over the TikTok U.S. platform. Exec. Order No. 14352, 90 Fed. Reg. at 47220.

TikTok Inc. maintains that it has always identified an accurate list of RPIs in these proceedings. But in light of these changed circumstances, and out of an abundance of caution, TikTok Inc. seeks permission to update its mandatory notices to identify TikTok USDS Joint Venture LLC as an RPI.

For the reasons above, TikTok Inc. respectfully submits that these IPRs should be remanded to the panel for a decision on the merits.

Respectfully submitted,

Date: February 2, 2026

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CERTIFICATE OF SERVICE

Pursuant to 37 CFR § 42.6(e)(4), the undersigned certifies that on February 2, 2026, a complete and entire copy of this Petitioner's Supplemental Brief was provided by email to Patent Owner by serving the email correspondence addresses of record as follows:

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