

AMENDED Exhibit 411

PLAINTIFFS' OMNIBUS OPPOSITION TO DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT

Case No.: 4:22-md-03047-YGR

MDL No. 3047

In Re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation

1

Reported by: Leslie A. Todd, CSR No. 5129 and RPR

1 The court reporter is Leslie
2 Todd, and will now swear in the
3 witness.

4 THE REPORTER: Hi, I am Leslie
5 Todd, California CSR 5129.

6 ANDREW KIRCHHOFF,
7 and having been first duly sworn,
8 was examined and testified as follows:

9 EXAMINATION

10 BY MR. WEINKOWITZ:

11 Q. Good morning, sir. We just met
12 off the record. My name is Mike Weinkowitz.
13 I will be questioning you along with my
14 co-counsel Felicia Craick, who will be -- who
15 will be questioning you after this.

16 We're here today to take your
17 deposition. Do you understand that?

18 A. Yes.

19 Q. And please state your full name
20 for the record, and spell it, if you would.

21 A. My name is Andrew Kirchhoff.
22 K-I-R-C-H-H-O-F-F. And I go by Drew.

23 Q. And what is your current
24 address?

25 A. My current address is 10 --

1 correct?

2 A. That's correct, yes.

3 Q. All right. And you prepared
4 your LinkedIn profile, right?

5 A. I prepared my LinkedIn, yes,
6 that's written by me.

7 Q. Written by you. All right.

8 MR. WEINKOWITZ: Can we pull up
9 Tab A, please? And we will mark this
10 as Exhibit 1.

11 (Exhibit No. 1 was marked for
12 identification.)

13 BY MR. WEINKOWITZ:

14 Q. I'll represent to you that a
15 little bit ago I downloaded this from your
16 LinkedIn profile. When you download a --
17 when you download something off of LinkedIn,
18 it comes in a resume form.

19 Does this appear to be -- take
20 a look at it and let me know when you're
21 ready.

22 A. Yep, I -- I can just see the
23 screenshot, right?

24 Q. Yeah. And I think if you need
25 to -- if there's a second page, I think you

1 can use your mouse to move it around.

2 MR. VIVES: Just a reminder
3 that you have access to that share
4 folder where, you know, the trial tech
5 is adding all of these. So if you
6 need to look at the additional pages,
7 you can pull it up on your own screen
8 and thumb through it quickly.

9 THE WITNESS: Awesome. I -- I
10 got it now. It's -- it's fresh. I'm
11 just reading through it real quick.

12 BY MR. WEINKOWITZ:

13 Q. Take your time.

14 A. (Peruses document.) Okay,
15 cool. Yep, this is my LinkedIn.

16 Q. Okay. And this appears to be
17 your LinkedIn profile, and is it accurate to
18 the best of your recollection?

19 A. Yes. The only thing I'll say
20 is that I don't work at TikTok anymore.

21 So --

22 Q. Got it.

23 A. Yeah.

24 Q. Okay. So what I've done is --

25 MR. WEINKOWITZ: If we could

1 pull up Tab A-1.

2 BY MR. WEINKOWITZ:

3 Q. What we've done is we've taken
4 your -- the information on your LinkedIn
5 profile and we have created a visual of your
6 positions at TikTok and ByteDance, and I sort
7 of want to ask you some questions about this.
8 Okay?

9 A. Okay.

10 Q. That's your picture to the left
11 from your LinkedIn profile, right?

12 A. Yes.

13 Q. All right. And you worked for
14 TikTok and ByteDance for approximately six
15 years from October 2018 to September of 2024,
16 correct?

17 A. That's correct.

18 Q. And that's depicted on this
19 exhibit, correct?

20 A. Correct.

21 MR. WEINKOWITZ: All right.

22 And we're going to mark this as
23 Exhibit 2.

24 (Exhibit No. 2 was marked for
25 identification.)

1 BY MR. WEINKOWITZ:

2 Q. Your first position is -- was
3 you were project manager for about three
4 years in Beijing, China, correct?

5 A. Correct.

6 Q. And you held that position from
7 October of 2018 to October of 2021, correct?

8 A. Yes.

9 Q. All right. And then you -- you
10 had a second position at TikTok and ByteDance
11 as a data scientist, right?

12 A. Right.

13 Q. And that was from October
14 21st -- I'm sorry, October '21 to September
15 2024, correct?

16 A. Yes.

17 Q. And you held that position for
18 three years, right?

19 A. Correct.

20 Q. And were you located in Los
21 Angeles, California?

22 A. I began in Los Angeles, and
23 then I moved to San Jose.

24 Q. Okay. So does this reasonably
25 and accurately depict a summary of your

1 employment at TikTok and ByteDance, this
2 exhibit?

3 A. Yes --

4 MR. VIVES: Object to form.

5 THE WITNESS: Yes, this is
6 accurate.

7 BY MR. WEINKOWITZ:

8 Q. Okay. So now what I would like
9 to do is I want to ask some questions about
10 each of the positions that you held now that
11 we've established this.

12 So let's start with your
13 project manager position that you held for
14 three years in Beijing, China. The first
15 question I have is, do you speak and read --
16 do you speak, read and write Mandarin?

17 A. Yes.

18 Q. And ByteDance is the parent
19 company of TikTok, correct?

20 A. Correct.

21 Q. And it's a Chinese company,
22 right?

23 MR. VIVES: Object to the form.

24 THE WITNESS: ByteDance is a
25 Chinese company, yes.

1 A. The CEO of TikTok, I think it
2 was Vanessa.

3 Q. Vanessa Pappas?

4 A. Yeah, I think she was the CEO.
5 I don't know if she was like CTO or CEO or --
6 I think she was the CEO.

7 Q. How about Alex Zhu, what was
8 his position?

9 A. Alex Zhu, I don't -- I'm not
10 sure if he was like the CEO, but he was more
11 of like head of product. Product
12 (inaudible).

13 Q. All right. So from
14 October 29th, 2018, to October 21st -- I'm
15 sorry -- October 2021, when you were product
16 manager, were you in a specific department?

17 A. Yes. I was in the PM, product
18 manager department.

19 Q. Okay. Were you -- were you
20 ever in a department called Douyin Core
21 Product, product structure?

22 A. Not that I'm aware of. I -- I
23 never worked on Douyin. I just worked on
24 TikTok, which is the global -- global TikTok.

25 Q. Okay. And when you say the

1 global TikTok, that means the TikTok that's
2 in every country?

3 A. Exactly, because --

4 Q. I ran over -- I ran over you.
5 So go ahead, finish. My fault.

6 A. I was just saying, yeah,
7 there's like the Chinese app, which is a
8 separate app. It's called Douyin. And then
9 there's the TikTok, which is the global app.
10 And they are entirely separate apps.

11 Q. Okay. And you -- when you
12 worked on the global TikTok app, that was
13 also available in the United States, correct?

14 A. That's correct.

15 Q. So from November 1, 2019, until
16 October 2021, was -- did you say that your
17 department was called TikTok product?

18 A. I believe so. Yes, TikTok
19 product is -- is a good name.

20 Q. Okay. When you went from being
21 a product manager to a data scientist, did
22 your job duties and responsibilities change?

23 A. Honestly, they didn't change
24 very much. It was a very similar position.

25 Just to provide a little more

1 clarity, like the product team is a separate
2 team from the algorithm team, so they are
3 separate teams.

4 And on this -- as a data
5 scientist, I was working on the algorithm
6 team, and on the algorithm team, there are no
7 product managers. So I was essentially a
8 product manager, but I just had the title
9 data scientist because we didn't like have
10 product managers in -- in those roles.

11 So my -- my job functionality
12 was very, very similar. It didn't really
13 change too much.

14 Q. Okay.

15 A. But just like the name changed
16 because we don't have product managers in
17 that group.

18 Q. Understood. Understood.

19 As a product manager, did
20 you -- were you a regional product -- on the
21 regional product management side?

22 A. So that's a good question. So
23 the -- you know, the product management --
24 the product management team, our team focused
25 on different regions. So each PM was

1 responsible for a different region. I was
2 more responsible for the U.S. However, I
3 also played a role of doing a lot of data
4 science and analysis that fed into the other
5 regions.

6 So I helped out on the U.S.,
7 but more than that, I was kind of like a data
8 lead for our team, and I -- I helped like
9 provide analysis for a lot of the regions.
10 Not just the U.S., but basically all regions.

11 So my focus was more on the
12 U.S. because I'm from the U.S., but I also
13 helped like prepare a lot of data analysis
14 that could support all of the regions.

15 Q. Would -- would you agree with
16 me, as a product manager, you had three
17 overall business metrics that you were
18 responsible for: The first being DAU, which
19 is daily active users; the second being
20 overall playtime, which is like session time;
21 and the third being retention?

22 MR. VIVES: Object to the form.

23 THE WITNESS: So there were a
24 lot of core metrics that we focused on
25 in regional PM. There's -- I would

1 Q. Right. And then she thanks you
2 for sharing the History 101, and she says the
3 History 101 document sounds like a great
4 document. Correct?

5 A. Correct.

6 MR. WEINKOWITZ: All right. So
7 let's pull up the next exhibit, which
8 will be Tab B-1A, which we'll mark as
9 Exhibit --

10 MS. ANDERSON: 5.

11 MR. WEINKOWITZ: -- 5? All
12 right.

13 (Exhibit No. 5 was marked for
14 identification.)

15 BY MR. WEINKOWITZ:

16 Q. I'll represent to you that this
17 was attached to that Lark chat. It was what
18 you hyperlinked, and it was produced to us by
19 TikTok and ByteDance.

20 Do you have any reason to
21 dispute that?

22 A. Just to make clear, like you --
23 there were two Lark links, and this is one of
24 those links?

25 Q. Yes, it was, sir.

1 A. Okay. I -- I don't dispute
2 that.

3 Q. And it was produced out of your
4 file from TikTok and ByteDance. Any reason
5 to dispute that?

6 A. No, I don't dispute it.

7 Q. And is there any reason to
8 believe that the content of this document was
9 altered in any way from how it existed
10 before it was -- yeah, when it was produced
11 by TikTok and ByteDance?

12 A. I -- I don't dispute it.

13 Q. You wrote this document,
14 correct, sir?

15 A. I wrote this document.

16 Q. And this was the document that
17 you were presenting to new hires in the video
18 recording that we marked as Exhibit 4, I
19 believe, right?

20 MS. ARMSTRONG: 3-A.

21 MR. WEINKOWITZ: 3-A.

22 THE WITNESS: Yes. So just to
23 make it real clear, like for Lark, in
24 that new hires, that's just -- I'm not
25 sure whose team's new hire that is

1 because each team, they had their own
2 new hires.

3 And like I'm not really sure --
4 like any team could have used this as
5 their like new hire documentation. So
6 I'm not really sure. Like this isn't
7 like new hires for all of TikTok. It
8 should probably just be like one
9 specific team. And -- and the doc
10 could also be like in other, like,
11 folders. You could think of that new
12 hire as a folder, but it -- but which
13 team's folder, I'm not really sure.

14 BY MR. WEINKOWITZ:

15 Q. Understood. Understood. But
16 my -- I think my -- what I was trying to get
17 at, and I probably botched it with a very
18 unclear question, this document, TikTok
19 History 101 U.S., was the document that you
20 were giving the presentation about.

21 A. Exactly. Exactly. And the --
22 like I don't really remember who the audience
23 was that I was giving it to. That actually
24 might have been the trust and safety team.
25 But it wouldn't have been to new hires. Like

1 those -- these presentations would have been
2 to people who were already like at TikTok.
3 And it might have been like a group like --
4 like a team. Like in a team as like
5 information. As like information.

6 Q. Okay. So I'll -- I won't refer
7 to new hires anymore. I'll just -- we'll
8 just talk about this document as being a
9 document that you gave a presentation about.
10 Not sure to who, right?

11 A. Correct.

12 Q. Okay, got it.

13 Now, I had given this to your
14 lawyers -- it's a long document. It's like
15 132 pages long. I had given this to your
16 lawyers at -- before the deposition to give
17 you a paper copy.

18 Do you have a paper copy with
19 you?

20 A. I don't have a paper copy with
21 me.

22 Q. Okay. And I also asked them to
23 give you an opportunity to review it before
24 the deposition so you would be familiar.

25 Did you review -- did you

1 ending in Bates 198.

2 And under the picture it says:
3 "ByteDance acquires musical.ly in 2017 and
4 rebrands to TikTok by 2018."

5 Did I read that correctly?

6 A. Yes.

7 Q. And to your knowledge, that's
8 accurate, right?

9 A. I believe so.

10 Q. So ByteDance started running
11 musical.ly in about 2017, correct?

12 A. Yes.

13 Q. And then it rebranded
14 musical.ly to become TikTok in about 2018,
15 right?

16 A. Yes.

17 Q. And if we look at just above
18 that quote, there is a picture of what
19 musical.ly looked like, correct?

20 A. Correct. And like I got this
21 from Google, like it wasn't -- like these
22 screenshots, they -- I never actually used
23 musical.ly, because this was like 2017.

24 So I just want to make it
25 clear, like all of the pictures in here, most

1 of them I get -- I get from Google, like
2 Google Images or articles written by other
3 people. I tried to make it like so that
4 everything in this doc can be searched online
5 and the corresponding information can be
6 found.

7 Q. Understood. So this --

8 MR. WEINKOWITZ: Can we blow
9 this picture up of what musical.ly
10 looked like?

11 Can you blow that up for us,
12 Ray?

13 BY MR. WEINKOWITZ:

14 Q. So this was a picture of what
15 musical.ly looked like that you got online,
16 and it was accurate enough, to your
17 knowledge, to put into this document, right?

18 MR. VIVES: Object to the form.

19 THE WITNESS: So the reason
20 that I put this in is to explain
21 how -- like how musical.ly worked, and
22 then how we transitioned it into
23 TikTok from a product perspective,
24 primarily with the For You page on the
25 left, on the far left. And then the

1 second screen, these are challenges,
2 which we would call hashtags, and then
3 the third image should be like
4 different ways to discover like music
5 and songs, and then the fourth should
6 be the profile, user profile.

7 BY MR. WEINKOWITZ:

8 Q. Understood. Okay.

9 MR. WEINKOWITZ: Could we go to
10 page 2 ending in Bates 197.

11 BY MR. WEINKOWITZ:

12 Q. At the very top it says:
13 "Musical.ly found its audience in middle
14 school and high school females interested in
15 lip sync dance."

16 Did I read that correctly?

17 A. Yes.

18 Q. And to the best of your
19 knowledge, is that accurate?

20 A. I believe so. I've never
21 worked on musical.ly myself, but this is like
22 what I heard, and like from research, this is
23 like what I learned.

24 Q. Okay. And you felt it was
25 accurate enough to put into this TikTok

1 document, right?

2 A. Yeah. I think the -- the
3 common perception was that it was mostly
4 under 18 female users that did lip sync
5 dance.

6 MR. WEINKOWITZ: Okay. Can --
7 can we play what -- Tab B-11D, please.
8 (Video played.)

9 BY MR. WEINKOWITZ:

10 Q. Okay. That was your -- that
11 was you in that clip, correct?

12 A. Yep, that's me.

13 Q. And so you said that musical.ly
14 was tied to young females basically in the
15 age range of seven to 12, correct?

16 A. I -- yeah, that's the -- yep.

17 Q. And that's fifth and sixth
18 graders, right?

19 A. Fifth, sixth, middle school,
20 and then maybe like freshmen. Maybe a little
21 bit of high school.

22 MR. WEINKOWITZ: I would like
23 to mark that clip as the next exhibit
24 number.

25 MS. ARMSTRONG: We will mark

1 MS. ARMSTRONG: Exhibit 5.

2 MR. WEINKOWITZ: Exhibit 5.

3 BY MR. WEINKOWITZ:

4 Q. And right underneath that is a
5 Section III. It says: "How TikTok became
6 mainstream in high school L2 2019."

7 Do you see that?

8 A. Yes.

9 MR. VIVES: Objection.

10 MR. WEINKOWITZ: I said L2.

11 I'm sorry. I meant 2H. Let me start
12 again. It's late.

13 BY MR. WEINKOWITZ:

14 Q. Section III of this document
15 says: "How TikTok became mainstream in high
16 school 2H 2019."

17 Did I read that correctly?

18 A. Yes.

19 Q. And does 2H mean second half of
20 2019?

21 A. Yes.

22 Q. And so this part of the TikTok
23 history U.S. document describes how TikTok
24 became mainstream in high schools by the end
25 of 2019, second half of 2019, right?

1 MR. VIVES: Object to the form.

2 THE WITNESS: Second half of

3 2019, yes.

4 BY MR. WEINKOWITZ:

5 Q. First sentence: "In 1H 2019,
6 we began spending more on Snapchat as an
7 acquisition channel with the aim to grow L2
8 male users."

9 Did I read that correctly?

10 A. Yes. You read it correctly.

11 Q. And "we" is TikTok, correct?

12 A. TikTok, yes.

13 Q. So TikTok began spending more
14 on advertising on Snapchat, right?

15 A. Yes.

16 Q. As an acquisition channel,
17 correct?

18 A. Yes.

19 Q. And L2 males are boys between
20 the ages of 15 and 17, correct?

21 A. That's correct.

22 Q. So high school boys, right?

23 A. High school boys, yes.

24 Q. And just so that the jury
25 remembers, this is a section about how TikTok

1 Do you see that?

2 A. I see that.

3 Q. And L2 are high school males,
4 correct?

5 A. L2, high school male.

6 Q. All right. And the first
7 sentence says: "In the graph below we can
8 see that L2 male was originally the lowest
9 performing user group among our diverse user
10 group with DNU retention at 70 percent."

11 Did I read that correctly?

12 A. Yes.

13 Q. And DNU is daily new users,
14 correct?

15 A. Correct.

16 Q. And what does "retention" mean?

17 A. "Retention" just means if they
18 came back on on the next day from -- being
19 used that first day, did they come back the
20 next day.

21 Q. All right. So the next
22 sentence says: "However, L2," which is 15-
23 to 17-year-olds, "male, grew significantly in
24 2H," which is second half, "2019, reaching 86
25 percent and surpassing all other user groups

1 except for L2 females," high school females.

2 Did I read that correctly?

3 A. Correct.

4 Q. And then there's a graph,
5 correct?

6 A. Correct.

7 MR. WEINKOWITZ: And can you
8 blow -- Ray, I know it's a little
9 grainy, but can you blow up the key on
10 the graph?

11 BY MR. WEINKOWITZ:

12 Q. The yellow line is females age
13 15 to 17 on the graph. Do you see that?

14 A. Yes.

15 Q. All right. And TikTok
16 basically had the high school girl segment
17 fully acquired from musical.ly, right?

18 MR. VIVES: Object to the form.

19 THE WITNESS: I don't know
20 about like fully acquired, but
21 musical.ly was mostly female. But it
22 would have just been like a segment of
23 females, like -- that's what I was
24 trying to explain, like these are
25 segments. They're not like the entire

1 segment. L2 male high school is one
2 segment.

3 MR. WEINKOWITZ: Okay. Can we
4 play clip B-11F, please.

5 MS. ARMSTRONG: B-3.

6 (Exhibit No. B-3 was marked for
7 identification.)

8 BY MR. WEINKOWITZ:

9 Q. So that's you, correct?

10 A. That's me.

11 Q. And that's part of your
12 presentation, right?

13 A. That was part of my
14 presentation.

15 Q. And, in fact, you were able to
16 pinpoint not just an exact month, but a year
17 that TikTok accomplished its objective of
18 acquiring high school males, that user
19 segment, right?

20 MR. VIVES: Object to the form.

21 THE WITNESS: High school -- L2
22 male was one of the segments, and
23 like -- what I mean in that -- in that
24 statement is like we had already --
25 like high school and TikTok was

1 popular in high school and college,
2 and now we wanted to focus like on
3 adult users, 18-plus.

4 MR. WEINKOWITZ: Motion to
5 strike nonresponsive.

6 BY MR. WEINKOWITZ:

7 Q. Do you remember what my
8 question was, sir?

9 A. Um --

10 MR. VIVES: Ask it again, Mike.

11 MR. WEINKOWITZ: No.

12 BY MR. WEINKOWITZ:

13 Q. Do you remember what -- I have
14 a question. Do you remember what my question
15 was?

16 A. If we had become -- I think I'm
17 interpreting your question as did we saturate
18 high school and college users?

19 Q. No. My question was there was
20 a specific date in your quote that you point
21 to as to when you became -- TikTok became
22 mainstream in high schools, correct?

23 A. Correct.

24 MR. VIVES: Object to the form.

25 BY MR. WEINKOWITZ:

1 Q. And that was October of 2018,
2 correct?

3 MR. VIVES: Object to the form.

4 THE WITNESS: October 2018 was
5 the start, and it went one year, like
6 probably into 2019 -- 2018 and 2019.

7 MR. WEINKOWITZ: Right. Play
8 clip 11 -- B-11K.

9 MS. ARMSTRONG: 3-H.

10 (Exhibit Nos. 3-G and 3-H were
11 marked for identification.)

12 (Video played.)

13 BY MR. WEINKOWITZ:

14 Q. That's you from your
15 presentation at TikTok and ByteDance, right?

16 A. Yes, that's me.

17 Q. And you're explaining that in
18 2019 -- October of 2019, the high school male
19 cluster overtakes the female cluster,
20 correct?

21 MR. VIVES: Object to the form.

22 THE WITNESS: That's what I
23 said.

24 BY MR. WEINKOWITZ:

25 Q. Okay. Fair to say that one of

1 break for lunch then.

2 MR. WEINKOWITZ: Yeah, let's
3 take a five-minute, a ten-minute break
4 now, because I need a bio break, and
5 we'll go to noon if that's okay.

6 THE WITNESS: Yep, sounds good.

7 THE VIDEOGRAPHER: The time is
8 10:24. We're off the record.

9 (Recess.)

10 THE VIDEOGRAPHER: The time is
11 10:29. We're back on the record.

12 MR. WEINKOWITZ: Okay. Let's
13 pull up HS5.

14 MS. ARMSTRONG: Exhibit 10.

15 MR. WEINKOWITZ: Thank you.

16 (Exhibit No. 10 was marked for
17 identification.)

18 BY MR. WEINKOWITZ:

19 Q. Take a moment and review this,
20 and let me know when you're ready.

21 A. (Peruses document.) Okay.
22 Ready.

23 Q. Have I given you a fair and
24 adequate opportunity to review the document?

25 A. Is it just this one page?

1 Q. No. It's a couple of pages.

2 A. Okay. Sorry, I just -- I was
3 just looking at the Zoom. Let me open it in
4 the document.

5 Q. Yep. I'll tell you I'm only
6 going to ask you about something on page 2,
7 so --

8 A. Page 2. Okay.

9 Q. But take your time.

10 A. (Peruses document). Okay. I'm
11 ready.

12 Q. Okay. Have I given you a fair
13 and adequate opportunity to read the
14 document?

15 A. Yes.

16 Q. This was a document produced to
17 us by ByteDance and TikTok from your file.
18 Any reason to dispute that?

19 A. Nope.

20 Q. The metadata, which is on the
21 back of the document, the metadata that
22 ByteDance and TikTok provided us, if you
23 look, it says that this was created June
24 30th, 2019. Any reason to dispute that?

25 A. No.

1 Q. Any reason to believe that the
2 content of the document was altered in any
3 way since it was produced to us by TikTok or
4 ByteDance?

5 A. No.

6 Q. All right. So the title of the
7 document is "Drew's OKRs."

8 Do you see that?

9 A. Yes.

10 Q. And what are OKRs?

11 A. Objectives, key results.

12 Q. And under that it's got a date
13 of July to August. Do you see that?

14 A. Yes.

15 Q. Did you write this document as
16 part of your job at TikTok?

17 A. Yes.

18 Q. All right. So if you would go
19 to the next page, page 2, ending in Bates
20 326, sort of like the second item down, it
21 says, "Support L2 User Research."

22 Do you see that?

23 A. I see that, yes.

24 Q. Was one of your
25 responsibilities to conduct the research into

1 high schoolers?

2 A. L2 male, one of my -- one of my
3 goals was to understand like why do L2 males
4 use TikTok, yep.

5 Q. All right. And so the first
6 bullet point says: "The research was to
7 understand how school trends and sentiment
8 regarding TikTok as a brand and TikTok as a
9 product plus user experience." Right?

10 A. Yes.

11 Q. And the second bullet point
12 says: "The objective of the research was to
13 understand what fuels usage and adoption in
14 high schools." Correct?

15 A. Correct.

16 Q. And adoption, does that mean
17 adoption of TikTok?

18 A. Yes, using TikTok.

19 Q. Were you also trying to
20 understand high school usage and adoption of
21 TikTok's competitors?

22 A. I believe so, yes. It's not
23 written here, but Instagram, YouTube, Reddit,
24 Snapchat, yes.

25 Q. Got it. And the high schools

1 that you were going to study, were they in
2 the United States?

3 A. If it was for me -- if it was
4 me studying it, it would be in the U.S.

5 Q. Okay. Continuing with the
6 first bullet point, another objective of the
7 research you were going to do for TikTok was
8 to understand what the difference in usage
9 between freshmen, sophomore, juniors and
10 seniors were. Correct?

11 A. Yeah. Yes.

12 Q. And TikTok wanted to understand
13 what stops students from using TikTok from
14 senior year to freshman in college? What
15 drives trends? Correct?

16 A. Yeah, I mean -- one of the --
17 one of the problems with TikTok is that
18 people thought it was childish, and so if --
19 if you stopped using it in high school, when
20 you go to college, is that because it's like
21 childish? We wanted to get away from this
22 childish imagery, and that's like why -- it
23 was like freshman, sophomore, junior year,
24 like what changes? Like why does TikTok
25 become childish, and how do we get away from

1 an entirely new cluster based on high school
2 athletes and more popular types of kids."

3 You wrote that, correct?

4 A. Yes.

5 Q. Okay. And if you turn to the
6 next page, which is Bates ending in 130 --
7 137, there's a question that you had to
8 answer, it's "What upcoming milestone --
9 stones are relevant to this requested
10 research?"

11 Do you see that?

12 A. Yep.

13 Q. And the second thing you write
14 there is: "Determine if TikTok is considered
15 mainstream and cool or not for high schoolers
16 by Christmas."

17 Do you see that?

18 A. Yep.

19 MR. WEINKOWITZ: Okay. Can we
20 pull up Tab HS3?

21 MS. ARMSTRONG: Exhibit 15.

22 (Exhibit No. 15 was marked for
23 identification.)

24 BY MR. WEINKOWITZ:

25 Q. I will give you an opportunity

1 to review this.

2 I will tell you that I'm
3 primarily going to focus on page 10 and 11
4 and 13. But take your time. Let me know
5 when you're ready.

6 A. Okay. (Peruses document.)
7 Okay, I'm ready.

8 Q. Okay. Have I given you a fair
9 and adequate opportunity to review the
10 document?

11 A. Yes.

12 Q. This is a Lark chat between you
13 and Tyler Dimicco produced by TikTok and
14 ByteDance.

15 Do you see that?

16 A. Yes.

17 Q. And TikTok and ByteDance
18 produced this from your file. Any reason to
19 dispute that?

20 A. No, no reason to dispute it.

21 Q. And you're chatting with Tyler
22 about your work at TikTok, right?

23 A. Like some TikTok, some not
24 TikTok.

25 Q. No reason to believe that the

1 Q. All right. And if you go to
2 page 13, which ends in Bates 274, the
3 second -- the second message, you say: "The
4 trip has been really" -- I'm sorry -- "The
5 trip has been really insightful."

6 And then two chats down, two
7 messages down, you say: "Literally all
8 middle school to high schoolers, like eight
9 to 18, have heard of TikTok in Houston and
10 Chicago."

11 Did I read that correctly?

12 A. Yes.

13 Q. Were you in Houston and Chicago
14 to conduct research about TikTok's use by
15 high schoolers?

16 MR. VIVES: Object to the form.

17 THE WITNESS: I was -- I
18 believe I was on a user research for
19 like user perception --

20 BY MR. WEINKOWITZ:

21 Q. Okay.

22 A. -- of TikTok.

23 MR. WEINKOWITZ: All right. So
24 let's -- let's play B-11I, please.

25 MS. ARMSTRONG: 3-J.

1 (Exhibit No. 3-J was marked for
2 identification.)

3 (Video played.)

4 BY MR. WEINKOWITZ:

5 Q. That was you speaking, correct?

6 A. Yes, that's me.

7 Q. As part of your presentation of
8 the TikTok 101 U.S. presentation, right?

9 A. Right.

10 Q. And you say in April '19 you
11 were in Chicago and Houston, correct?

12 A. Correct.

13 Q. In the meantime there's the
14 Lark message to Tyler Dimicco that we were
15 just looking at, right?

16 A. Yes.

17 Q. And you mention that you were
18 with Vanessa, Wenjia and Alex and others,
19 right?

20 A. Yes.

21 Q. Is Alex Alex Zhu, the CEO of
22 TikTok at the time?

23 A. Yes.

24 Q. Is Wenjia Wenjia Zhu, the
25 global head of R&D?

1 MR. VIVES: Object to the form.

2 THE WITNESS: Yes.

3 BY MR. WEINKOWITZ:

4 Q. Is Vanessa, Vanessa Pappas?

5 A. Yes.

6 MR. WEINKOWITZ: Can you pull

7 up Tab D-9, please.

8 MS. ARMSTRONG: Exhibit 16.

9 (Exhibit No. 16 was marked for
10 identification.)

11 BY MR. WEINKOWITZ:

12 Q. So you were in Houston and
13 Chicago with all of these folks, correct?

14 A. Correct.

15 Q. And in the recording you say --
16 strike that.

17 In the recording of the
18 presentation we just heard, you said that
19 some people that were interviewed said that
20 like -- like their eight-year-old daughter
21 uses TikTok every day.

22 Do you remember that?

23 A. I remember that.

24 Q. And some people said that they
25 didn't know anything about TikTok at all,

1 right?

2 A. Yes. So like adults, they
3 didn't know TikTok, but it seems like kids
4 used -- knew TikTok.

5 MR. WEINKOWITZ: Can you go --
6 Ray, can you go back to the e-mail we
7 were just looking at, the same page,
8 page 13.

9 BY MR. WEINKOWITZ:

10 Q. In that message that you -- in
11 the same message that we looked at before,
12 you did say that literally all middle school
13 to high schoolers, like eight to 18, have
14 heard of TikTok in Houston and Chicago,
15 right?

16 A. That -- yes, that's what I
17 said.

18 Q. And you even mentioned middle
19 school there, right?

20 A. Yes. Middle school, high
21 school.

22 Q. And did you go to any other
23 cities to conduct this research other than
24 Chicago and Houston?

25 A. I -- I honestly don't -- I'm

1 -- continuing there: "L3 and 4s heard about
2 TikTok because their younger siblings or
3 their kids use it and see ads/reposts in INS
4 and YT."

5 That's Instagram and YouTube?

6 A. Correct.

7 Q. Did I read that correctly?

8 A. Yes.

9 Q. Okay. Next sentence: "Middle
10 school and high school students hear about it
11 as reposts to INS," Instagram, "meme
12 accounts, UG ads, lip sync dance, and
13 YouTube."

14 What is UG ads?

15 A. User growth.

16 Q. Did I read that correctly?

17 A. Yes.

18 MR. WEINKOWITZ: All right.

19 Let's pull up Tab HS4.

20 MS. ARMSTRONG: Exhibit 17.

21 (Exhibit No. 17 was marked for
22 identification.)

23 BY MR. WEINKOWITZ:

24 Q. Same -- same routine, review it
25 and let me know when you're ready to go.

1 Q. And no reason to believe that
2 the content of this document was altered in
3 any way from how it existed when it was
4 produced by TikTok and ByteDance, right?

5 A. Correct.

6 Q. All right. Now, let's look at
7 page 1, Adam starts off with: "How's the
8 high schoolers?" Right?

9 A. Yep.

10 Q. And you respond: "Yeah, back
11 at the hotel," and then you say: "Dude, I
12 talked to around 30 high schoolers." Right?

13 A. Yes.

14 Q. And you say: "The girls all
15 like it, and the guys don't really like it."
16 Right?

17 A. Yes.

18 Q. "They all know TikTo (sic)," which I think is supposed to be TikTok,
19 right?
20

21 A. Yep.

22 Q. And then you write: "Soooo
23 many." Correct?

24 A. Soooo many -- yes, soooo many.

25 Q. Right. And then if you go to

1 (Exhibit No. 19 was marked for
2 identification.)

3 BY MR. WEINKOWITZ:

4 Q. Take your time, sir. Let me
5 know when you're ready.

6 A. Okay. (Peruses document.)
7 Okay, I'm ready.

8 Q. Okay. All right. This
9 document is titled "High Schoolers VidCon
10 Interviews UR Summary 07/12."

11 Do you see that?

12 A. Yes.

13 Q. And this was produced to us by
14 TikTok and ByteDance from your file. Any
15 reason to dispute that?

16 A. No.

17 Q. And no reason to believe that
18 the contents of this document were altered in
19 any way from how it existed when it was
20 produced by TikTok or ByteDance?

21 A. No.

22 Q. Okay. Does this refresh your
23 recollection that the -- that [REDACTED] and the
24 other folks wrote a report and sent it to you
25 after they went to VidCon?

1 MR. VIVES: Object to the form.

2 THE WITNESS: Can you rephrase
3 the question?

4 BY MR. WEINKOWITZ:

5 Q. Sure. Does this -- seeing this
6 document, does it trigger a memory that they
7 wrote a report and sent it to you after they
8 went to VidCon?

9 A. It -- all I -- I mean, it's
10 kind of hard to remember all this because it
11 was like almost six years ago now. So...

12 Q. Got it. Okay. Let's look at
13 the front of the document. Do you see that
14 it indicates that you requested the -- the
15 research?

16 A. Yes, I see that.

17 Q. Your name is there. And the
18 research goals are: "Segment research on
19 people in high schools to better understand
20 their day-to-day behaviors, perception of
21 TikTok and app usage patterns. Explore
22 possible factors that improve metrics
23 performance this summer," then "summer 2018."

24 Did I read that correctly?

25 A. Yes.

1 A. Yes.

2 Q. All right. Let's go to page 4

3 to 5. On the bottom of page 4, it says:

4 "Two female 15-year-old high school."

5 Do you see that?

6 A. Yes.

7 Q. On the next page are comments

8 recorded from -- by that person, right?

9 A. Yes.

10 Q. And if you go to the eighth one

11 down, do you see that it says: "Everyone

12 says you'll get addicted to it. It's true,"

13 exclamation point.

14 Did I read that correctly?

15 A. Yes, that's what it says.

16 Q. And this was in July of 2019,

17 correct?

18 A. Yes.

19 Q. So let's go to the last page.

20 And the last page has photographs from

21 VidCon, right?

22 A. I wasn't at VidCon, but I -- I

23 guess these are like of a booth at VidCon

24 probably.

25 Q. And there's a TikTok booth,

1 MS. ARMSTRONG: Do you want to
2 mark the individual ones?

3 MR. WEINKOWITZ: Yeah, let's
4 mark the individual ones as A and B.

5 MS. ARMSTRONG: Sounds good.

6 BY MR. WEINKOWITZ:

7 Q. All right. So would it be fair
8 to say that after securing a strong following
9 among high school cool kids, TikTok switched
10 its focus to attracting college age users?

11 MR. VIVES: Object to the form.

12 THE WITNESS: So we have -- the
13 strategy at TikTok was called age up,
14 and so it started -- because we
15 acquired musical.ly, we had like
16 middle school and high schoolers. At
17 the time that was female, so we wanted
18 to also balance it out with males, so
19 that's why we discuss L2 male.

20 And then we focused on aging
21 up. So the next is college, and then
22 after that is 25 plus, and then after
23 that is 35 plus. So we really tried
24 to go like segment by segment upwards.

25 MR. WEINKOWITZ: Can you pull

1 think? Maybe that could have been
2 recorded by someone else like filming
3 it, but not that I know of that they
4 were recorded.

5 MR. WEINKOWITZ: Okay. Let's
6 pull up tab HS11.

7 MS. ARMSTRONG: Exhibit 23.

8 (Exhibit No. 23 was marked for
9 identification.)

10 BY MR. WEINKOWITZ:

11 Q. And I'll give you a chance to
12 review that, and let me know when you're
13 ready.

14 A. Okay. (Peruses document.)
15 Okay, I read through it.

16 Q. Okay. So the doc -- this
17 document is titled "2019/04 XFN Post-Research
18 Strategy Alignment."

19 Do you see that?

20 A. Yes.

21 Q. And what -- what does XFN stand
22 for?

23 A. XFN, cross-functional.

24 Q. Ah, thank you. You think I'd
25 know that by now.

1 All right. If you go to
2 page 4, you see under number 3 --

3 MR. WEINKOWITZ: I'm not sure
4 that's the right page. Yeah, right
5 there. Right there.

6 BY MR. WEINKOWITZ:

7 Q. -- number 3, it says, "Adam
8 Wang" -- "Product, Adam Wang and Drew
9 Kirchhoff."

10 A. Yes.

11 Q. So your name appears on the
12 document, right?

13 A. Correct.

14 Q. And would you have seen this
15 document since your name is on it?

16 MR. VIVES: Object to the form.

17 THE WITNESS: It's -- yeah, I
18 think so.

19 MR. WEINKOWITZ: Okay. If you
20 could turn to page 9. No, not that.
21 It says "High School User Perception."
22 Maybe the next page. My page numbers
23 might be off. That's it, yep,
24 page 10.

25 BY MR. WEINKOWITZ:

1 Q. Do you see that there's a
2 section about "High School User Perception"?

3 A. Yes, I see it.

4 Q. And it sort of summarizes some
5 findings from a high school user perception
6 study? Strike that.

7 A. I see that. Yep, I see that.

8 Q. Okay. And is this a summary of
9 the high school user perception study that
10 you worked on?

11 MR. VIVES: Object to the form.

12 THE WITNESS: Is there a date?

13 Can I just see when this date -- the
14 document of this date, I guess?

15 BY MR. WEINKOWITZ:

16 Q. If you look at the metadata.

17 A. Yeah.

18 Q. It's --

19 A. Yeah, I see it, 4/17. I think
20 this could have been from the user study that
21 we did in Houston and Chicago. It's tough to
22 remember because it was like almost six years
23 ago, but I believe it probably came from some
24 user study.

25 Q. Got it. Okay. And if you go

1 to the next page, there are high school
2 quotes.

3 Do you see that?

4 A. Yep.

5 Q. And this appears to be quotes
6 from the interviews from that study, does it
7 not?

8 MR. VIVES: Object to the form.

9 THE WITNESS: It looks like
10 quotes.

11 BY MR. WEINKOWITZ:

12 Q. Yeah, look at the fifth one
13 down. It says: "Yeah, I know TikTok. My
14 little sister uses it. She's eight. She
15 uses it every day with all her friends."

16 Do you see that?

17 A. I see it.

18 Q. That's similar to the quote
19 that we saw before in your -- in the Lark
20 chat from you, right?

21 MR. VIVES: Object to the form.

22 THE WITNESS: Yeah, eight.

23 BY MR. WEINKOWITZ:

24 Q. Right. Okay. Then on page --
25 a few more questions on this page -- page 7

1 was FC8, e-i-g-h-t, and then 38 was
2 FCA, which sounds similar to eight.

3 MS. ARMSTRONG: Oh.

4 TRIAL TECHNICIAN: So if that's
5 right, this one right here would
6 actually be 39, not 38.

7 MS. ARMSTRONG: Sounds good.
8 Thank you.

9 TRIAL TECHNICIAN: No problem.
10 (Exhibit No. 39 was marked for
11 identification.)

12 THE WITNESS: Okay, I'm ready.

13 BY MS. CRAICK:

14 Q. Okay. This is a Lark chat
15 between you and some of your colleagues at
16 TikTok, right?

17 A. Right.

18 Q. Okay. And you were
19 participating in the chat in the regular
20 course of your job at TikTok, right?

21 A. Yes.

22 Q. And you have no reason to
23 believe it was altered from how it existed in
24 your files, right?

25 A. Right.

1 Q. The title is "Push Optimization
2 Interest Segments," right?

3 A. Right.

4 Q. First message June 23rd, 2020,
5 correct?

6 A. Correct.

7 Q. Okay. And [REDACTED] invites
8 you to the chat. Do you see that?

9 A. Yes.

10 Q. And what was his role at
11 TikTok?

12 A. [REDACTED] was on the user growth
13 team.

14 Q. Okay. And what about the other
15 gentleman, what was his role?

16 A. I believe he was also on the
17 team with [REDACTED] same team as [REDACTED]

18 Q. Okay. And he tags you, and the
19 first message says: "Another TikTok employee
20 is working on optimizing ops push to reengage
21 inactive users."

22 Do you see that?

23 A. Yep, I see it.

24 Q. What is an ops push? Is that a
25 type of push notification?

1 A. That's correct.

2 Q. Okay. And could you explain to
3 the jury just what a push notification is?

4 A. A push notification is the
5 notification you get from an app on your home
6 screen. An app can send you information and
7 you can receive a notification for it, and
8 that notification, maybe it will slide down
9 at the top of your screen or up here on your
10 locked screen.

11 Q. And that can show up even when
12 you're not using the app, correct?

13 A. Yeah, you -- yes, that's
14 correct.

15 Q. Okay. And TikTok sends
16 different kinds of push -- push notifications
17 to its users, right?

18 A. Yes.

19 Q. And what is an ops push?

20 A. So I'm -- I'm inferring this,
21 but an ops push I believe is like -- and
22 someone from the operations team, they can
23 make like a title and a description, and then
24 send this title and description as a
25 notification to -- to the users, and the

1 users can receive that notification.

2 Q. Okay. And so does someone on
3 the ops team like write the title or decide
4 what the title says?

5 A. Yeah, if it's an ops -- that's
6 what I mean, if it's an ops push, I -- I
7 would imagine that those people are either
8 like manually writing them and then sending
9 them.

10 Q. Okay. And what does it mean
11 when he says "reengage inactive users"?

12 A. So my guess here is that these
13 people have stopped using TikTok for maybe
14 a -- like a period of time, and they haven't
15 opened it, and so you could send them a
16 notification about something that they're
17 interested in to see if they open the app.

18 Q. Okay. And you liked his
19 message. Do you see that?

20 A. I mean, yeah, it's basically to
21 let them know that I -- I've seen this
22 message, because it's like an introduction,
23 so...

24 Q. And so were you working with
25 the user growth team on push notifications?

1 A. Not really. This was -- this
2 was more of like a brainstorm, I would say.

3 Q. Okay. But they reached out to
4 you to ask some questions about push
5 notifications, correct?

6 A. Yes, that's correct.

7 MS. CRAICK: Okay. I will pull
8 up tab FC11 and mark that as the next
9 exhibit.

10 MS. ARMSTRONG: Exhibit 40.

11 (Exhibit No. 40 was marked for
12 identification.)

13 BY MS. CRAICK:

14 Q. And this is a document, a Lark
15 document that TikTok produced to us from your
16 files. On the last page of the metadata, you
17 will see you're the custodian.

18 Do you see that --

19 A. I see --

20 Q. -- under "Custodian"?

21 A. -- my name. I don't think I've
22 ever seen this doc before, but -- I don't
23 think I've ever seen this doc before.

24 Q. Okay. Do you see your name,
25 though, next to "Custodian"?

1 A. I see it.

2 Q. Okay. And feel free to take a
3 look at it, and let me know if you have a
4 question. I'm going to direct you to
5 specific portions and ask you -- ask you
6 about it. But let me know when you're ready,
7 okay?

8 A. (Peruses document.) Okay, I'm
9 ready.

10 Q. So the title of this document
11 is "TikTok Push 101 - English Version." Do
12 you see that?

13 A. Yes.

14 Q. Okay. And do you have any
15 reason to believe this document was altered
16 from how it existed in your files?

17 MR. VIVES: Object to the form.

18 THE WITNESS: No.

19 BY MS. CRAICK:

20 Q. Okay. The first point says:
21 "What does push look like?" Right?

22 A. Yes.

23 Q. And it shows an image of
24 someone's either locked screen or home
25 screen, right?

1 A. Yes.

2 Q. Okay. And then TikTok also
3 measured number of sessions that users had in
4 a day, right?

5 A. Yes, number of sessions.

6 Q. So on page 3, it says:
7 "Generally speaking, different types of push
8 have different goals."

9 Do you see that?

10 A. Yep, I see it.

11 Q. For example: "Interest push:
12 Based on 'no interest push to daily active
13 users' strategy, the goal is to activate
14 users so they will return to the app."

15 Do you see that?

16 A. I see it.

17 Q. Okay. And daily active users
18 refers to a user who is coming back to TikTok
19 every day, right?

20 MR. VIVES: Object to the form.

21 THE WITNESS: Right.

22 MS. CRAICK: Let's look at
23 page 8.

24 BY MS. CRAICK:

25 Q. Here it says, "How to improve

1 push." Do you see that?

2 A. I see it.

3 Q. And option 1 is "Sending time
4 optimization." Do you see that?

5 A. "Sending time operation," yes.

6 Q. Optimization, right?

7 A. Yep.

8 Q. Okay. And the goal there is to
9 find the best push time and the best push
10 count for every user to maximize DAU, daily
11 active users, and retention, right?

12 MR. VIVES: Object to the form.

13 THE WITNESS: That's what the
14 goal says.

15 BY MS. CRAICK:

16 Q. Okay. And is it your
17 understanding that push time would refer to
18 the time of day a push notification is sent?

19 MR. VIVES: Object to the form.

20 THE WITNESS: I believe so.

21 BY MS. CRAICK:

22 Q. And is it your understanding
23 that push count would refer to the number of
24 push notifications a given user would
25 receive?

1 MR. VIVES: Object to the form.

2 THE WITNESS: Yes.

3 BY MS. CRAICK:

4 Q. Okay. And then retention
5 refers to people continuing to use TikTok day
6 after day, right?

7 A. Yeah, either use it day after
8 day or -- (inaudible) -- actual push.

9 THE REPORTER: I need you to
10 repeat that. You kind of cut in and
11 out.

12 THE WITNESS: Yep, I mean DAU,
13 it could -- like it could refer to DAU
14 of the app as well as DAU of
15 responding to the notification.

16 Like I saw this notification.
17 Did I actually tap on it? Did I
18 actually open the app?

19 BY MS. CRAICK:

20 Q. And that's another thing that
21 TikTok looked at, right, whether or not its
22 notifications were effective in getting
23 people to open the app, right?

24 MR. VIVES: Object to the form.

25 THE WITNESS: Yes. Most

1 MR. VIVES: Object to the form.

2 THE WITNESS: Maxed out --

3 maxed out what?

4 BY MR. WEINKOWITZ:

5 Q. Sure.

6 MR. WEINKOWITZ: Play clip

7 B11M.

8 MS. ARMSTRONG: Exhibit 3-L.

9 (Exhibit No. 3-L was marked for
10 identification.)

11 (Video played.)

12 BY MR. WEINKOWITZ:

13 Q. Do you see that you say that
14 you're maxed out on L1/L2 at that point in
15 time?

16 MR. VIVES: Object to the form.

17 And I'm just going to make
18 another statement on the record,
19 objecting to the use of these --

20 MR. WEINKOWITZ: I've given
21 you -- I've given you a running
22 objection to this. Stop. Okay? Stop
23 interrupting my exam.

24 BY MR. WEINKOWITZ:

25 Q. Did you see that you said that

1 you were maxed out on L1 and L2 in that clip,
2 sir?

3 A. Yes, I did see it. I think
4 it's a little out of context, like I said.
5 But that's -- those were my words, yes.

6 MR. WEINKOWITZ: Okay. Now,
7 let's look at Exhibit 5, which is the
8 TikTok 101 document. And if we would
9 go to page 24 of that document.

10 BY MR. WEINKOWITZ:

11 Q. The TikTok lawyer asked you a
12 number of questions about this document,
13 right?

14 A. Yes.

15 MR. WEINKOWITZ: All right.
16 And if we put -- if we put also up
17 Exhibit 16 next to it, which is the
18 timeline --

19 BY MR. WEINKOWITZ:

20 Q. The TikTok lawyer asked you a
21 bunch of questions about this document,
22 correct?

23 A. Correct.

24 Q. And if you focus just on
25 2/20/19, and if you look at the -- the

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3 does hereby certify:

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5 me at the place and time therein set forth, at
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7 testimony of the witness and all objections made
8 at the time of the examination were recorded
9 stenographically by me and were thereafter
10 transcribed, said transcript being a true and
11 correct copy of my shorthand notes thereof; That
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13 void the reporter's certificate.

14 In witness thereof, I have subscribed my name
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