

# Federal district judge blocks President Trump's TikTok download ban

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On Sunday morning, a federal district judge granted a motion by the video sharing app TikTok to stop the Trump administration's executive order banning the Chinese-owned software from being downloaded through iPhone and Android app stores in the US.

In an 18-page "Memorandum Opinion," Judge Carl Nichols of the US District Court for the District of Columbia imposed a preliminary injunction on the president's ban that would have halted downloads of the massively popular app as of 11:59 p.m. on Sunday evening.

Judge Nichols agreed with TikTok's lawsuit filed on September 18. He ruled that the president's scheduled ban was unconstitutional on First (free speech) and Fifth (due process) amendment grounds. The judge wrote that the ban constitutes "indirect regulations of 'personal communication[s]' or the exchange of 'information or informational materials.'"

The judge also agreed with TikTok's claim that "absent injunctive relief," the company "will suffer irreparable harm." The judge wrote that the video sharing platform is "one of the fastest growing apps in the United States, adding 424,000 new users each day," and that banning TikTok from app stores would "have the immediate and direct effect of halting the influx of new users, likely driving those users to alternative platforms and eroding TikTok's competitive position."

The lawsuit *TikTok v. Donald Trump* was filed after the US president issued two executive orders on August 6 that declared the Chinese-owned apps TikTok and WeChat to be threats to "the national security, foreign policy and national economy of the United States."

The executive orders claimed, without substantiation, that TikTok and WeChat were capturing the user data of Americans "including internet and other network activity information such as location data and browsing

and search histories" and making it possible for the Chinese Communist Party to "track the locations of Federal employees and contractors, build dossiers of personal information for blackmail, and conduct corporate espionage."

Trump's orders, which were derived from the International Emergency Economic Powers Act (IEEPA) of 1977, called for a ban on certain business transactions with TikTok within 45 days. Five specific prohibited transactions were identified by US Commerce Secretary Wilbur Ross on September 18, the first of which was the download ban which was scheduled to take effect at midnight on September 27.

TikTok is owned by the Beijing-based app developer ByteDance. The app, which is promoted with the tag line "Make Your Day, Real People, Real Videos," was launched internationally in September 2017. In the ensuing three years, the app has been downloaded globally more than two billion times, and it has accumulated more than 800 million monthly active users in 155 countries and published in 39 languages. There are approximately 120 million monthly active users in the US.

In the leadup to and aftermath of the executive order, Trump made it clear that he would lift the TikTok ban if a deal could be worked out whereby ByteDance would be divested of its ownership of the app, and a US corporate entity could take it over. After initial negotiations for such a plan—which saw American corporate vultures lining up to get in on a US government-sponsored theft of the valuable Chinese asset—rumors were circulating that Microsoft and Walmart were close to signing a deal for the purchase of TikTok from ByteDance for an undisclosed sum.

Then, the Chinese government modified its export control rules that would require ByteDance to obtain a

license to sell its core technology to an American owner. The new rules, which restrict the export of “technology based on data analysis for personalized information recommendation services,” specifically impacted TikTok. The core technology and most valuable asset of TikTok is its recommendation algorithm that uses artificial intelligence and machine learning to predict the videos that users will find entertaining and keep them watching for longer periods of time.

An announcement by Treasury Secretary Stephen Mnuchin on September 13 said that a deal had been secured for the US enterprise software giant Oracle to become a “trusted tech partner” of TikTok. A week later, the proposed takeover expanded to involve Walmart, a group of US private equity and venture capital investors and the creation of a US corporate entity called TikTok Global and was given “the blessing” of Donald Trump.

The president even went so far as to claim that the US corporate heist of TikTok would provide the US government with a \$5 billion fund to “educate people” about the “real history of our country.” However, no deal has yet been finalized. The next deadline imposed under Trump’s executive order is November 12 in which advertising sales on the platform and other types of monetary transactions will be prohibited, effectively shutting the business down completely.

Early Tuesday morning, the *Global Times*, the English-language newspaper published under the auspices of the Chinese government, said that regardless of the outcome of the TikTok lawsuit, “China will resolutely take actions to prevent TikTok and its technologies from falling into the US’ hands to protect its national security and the interests of its enterprises.”

The paper quoted Liu Dingding, a veteran analyst very familiar with the TikTok issue, who said, “If the US-manipulated restructuring of TikTok becomes a template [for future deals], it would mean that world-class companies that have core competitiveness would be like ‘lambs’ that can be wantonly slaughtered by the US government when they enter the US market.”

The Chinese publication also quoted Zuo Xiaodong, vice president of the China Information Security Research Institute, who said, “The Trump administration is so crazy that it considers any Chinese

firm that collects user data in normal business operations as a [national security] threat. According to the US’ hegemonic logic, China should have banned a number of US high-tech companies as China heavily purchased from the US for its information industry development over the past years.”

The Trump administration’s effort to ban TikTok and WeChat—also being held up by a US court—addresses several strategic objectives of US imperialism simultaneously. On the one hand, it facilitates anti-Chinese propaganda as a means of deflecting growing social anger over the malign response of the White House to the coronavirus pandemic, and, on the other, it furthers trade war measures against one the greatest threats American global hegemony.

These political purposes are shared by the Trump administration, both parties in Congress and the Biden-Harris presidential campaign of the Democratic Party, all of whom are supporting the TikTok ban based on unproven accusations of Chinese spying on Americans. Speaking at a campaign stop in Minnesota on September 18, Joseph Biden said, “I think that it’s a matter of genuine concern that TikTok, a Chinese operation, has access to over 100 million young people, particularly in the United States of America.”



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