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10 Attorneys for Plaintiff

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12  
13 **UNITED STATES DISTRICT COURT**  
14 **CENTRAL DISTRICT OF CALIFORNIA**  
15 **SOUTHERN DIVISION**

16 JANE DOE on behalf of herself and all  
17 others similarly situated,

18 Plaintiff,

19 v.

20 MINDGEEK USA INCORPORATED,  
21 MINDGEEK S.A.R.L., MG FREESITES,  
LTD (D/B/A PORNHUB), MG  
22 FREESITES II, LTD, MG CONTENT RT  
LIMITED, AND 9219-1568 QUEBEC,  
23 INC. (D/B/A MINDGEEK),

24 Defendants.

Case No. 8:21-cv-00338

**CLASS ACTION**

**COMPLAINT FOR VIOLATION  
OF FEDERAL SEX  
TRAFFICKING LAWS**

**JURY TRIAL DEMANDED**

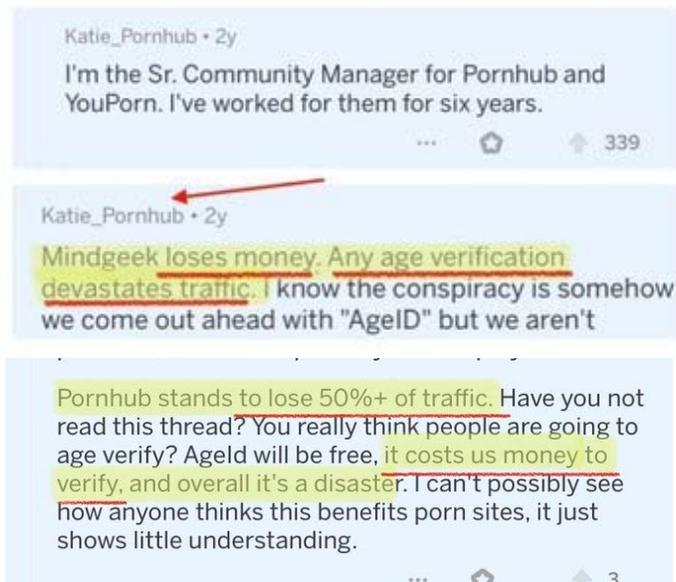
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**NATURE OF THE ACTION**

1  
2 1. Plaintiff brings this proposed class action for damages and injunctive  
3 relief on behalf of herself and all persons who were under the age of 18 when they  
4 appeared in a video or image that has been uploaded or otherwise made available for  
5 viewing on any website owned or operated by Defendants in the last ten years.

6 2. As alleged below, over the course of the last decade, Defendants have  
7 knowingly benefited financially from thousands—if not millions—of videos posted  
8 to their various websites featuring victims who had not yet reached the age of  
9 majority. Rather than address this horrifying and pervasive trend, for years,  
10 Defendants took almost no action, refusing to so much as institute any semblance of  
11 an age-verification policy that would prevent the uploading of this deeply  
12 problematic content.

13 3. The reason for Defendants’ inaction is simple: greed. As Pornhub’s  
14 own Senior Community Manger publicly acknowledged via a Reddit post, **age**  
15 **verification would be a “disaster”** for Pornhub because it **“costs us money to**  
16 **verify”** and would result in a **50% reduction in traffic**.





1 either directly or through intermediary companies also under the control MindGeek  
2 S.A.R.L.

3 9. Defendant MindGeek S.A.R.L. is a foreign entity (a Société à  
4 responsabilité limitée) organized and existing under the laws of Luxembourg and  
5 conducting business in the United States, including in this District. Although  
6 incorporated in Luxembourg, Mindgeek S.A.R.L.'s principal place of business is  
7 Montreal, Canada, and has satellite offices in, among other places, Los Angeles,  
8 California.

9 10. Defendant MG Freesites, Ltd. (d/b/a Pornhub) is a company  
10 incorporated in the Republic of Cyprus and conducting business in the United States,  
11 including in this District. Upon information and belief, MG Freesites, Ltd. is a  
12 wholly owned subsidiary of MindGeek S.A.R.L., either directly or through  
13 intermediary companies that are also under the control of Mindgeek S.A.R.L. Upon  
14 information and belief, MG Freesites, Ltd. is predominantly under the control of and  
15 operated by directors, officers, and employees working in MindGeek's offices in the  
16 United States and Canada, with little business operations being conducted within the  
17 Republic of Cyprus.

18 11. Defendants MG Freesites II, Ltd. is a company incorporated under the  
19 laws of the Republic of Cyprus conducting business throughout the United States,  
20 including within this District.

21 12. Defendant MG Content RT Limited is a company organized under the  
22 laws of Ireland conducting business throughout the United States, including within  
23 this District.

24 13. Defendant 9219-1568 Quebec, Inc. (d/b/a MindGeek) is a company  
25 organized and existing under the laws of Canada with a principal place of business  
26 located in Montreal, though it conducts business throughout the United States,  
27 including within this District.

28



1 the California Secretary of State, MindGeek USA Incorporated also maintains a  
2 business, mailing, and street address at 21800 Oxnard Street, Suite 150, Woodland  
3 Hills, California 91367. Collectively, Defendants transmit millions upon millions of  
4 videos and images to and from this State on an annual basis. And according to  
5 analytics Defendants recently posted on Pornhub.com, Los Angeles, California is the  
6 fourth city by volume of Pornhub.com usage.

7 21. Defendants have also purposefully availed themselves of this Court’s  
8 jurisdiction, including in the case of MindGeek S.A.R.L. and MindGeek USA, Inc.,  
9 by having litigated in this District. *See Preservation Technologies, LLC v. MindGeek*  
10 *USA, Inc. and MindGeek S.A.R.L.*, Case No. 2:17-cv-08906-DOC-JPR (C.D. Cal.).

11 22. Jurisdiction is further appropriate under 18 U.S.C. §1596, which  
12 provides for jurisdiction over any offender, in addition to any “domestic or extra-  
13 territorial jurisdiction otherwise provided by law,” where the offender is “present in  
14 the United States, irrespective of the nationality of the alleged offender.”

15 23. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because a  
16 substantial part of the events or omissions giving rise to the claims asserted in this  
17 action occurred in the judicial district where this action was brought. Venue is also  
18 appropriate in this district because defendant MindGeek USA, Inc. maintains a place  
19 of business in this district.

20 **I. SEX TRAFFICKING AND CHILD PORNOGRAPHY ON THE**  
21 **INTERNET**

22 24. Sex trafficking and the proliferation of child pornography are rapidly  
23 growing problems in the United States. Human trafficking is a 150-billion-dollar  
24 industry. Out of an estimated 40.3 million victims, 25% are children.<sup>1</sup>

25 25. The rise of the Internet and e-commerce has facilitated the rapid growth  
26 of the market for child pornography online. The Internet and digital technologies

27 \_\_\_\_\_  
28 <sup>1</sup> <https://coil.com/p/RileyQ/Child-Trafficking-What-You-Need-To-Know/mj4WEwhW7>

1 have created new models for sexual exploitation and trafficking, which are hidden  
2 and protected by cryptocurrency, laundered money, foreign Internet servers and  
3 anonymous messaging applications. The Child Rescue Coalition alone has identified  
4 71 million unique IP addresses worldwide sharing and downloading sexually explicit  
5 images and videos of children.<sup>2</sup>

6 26. The Internet is the number one platform for customers to buy and sell  
7 sex with children in the United States. Many sex buyers use the Internet to identify  
8 and connect with sellers and victims. Traffickers, in turn, use online networks, social  
9 media, websites, and dating tools to disguise their identities while identifying  
10 potential victims, which reduces traffickers' chances of being caught by law  
11 enforcement.

12 27. Americans are some of the top consumers and producers of child  
13 pornography. According to the U.S. Department of Justice, "Federal law defines  
14 child pornography as any visual depiction of sexually explicit conduct involving a  
15 minor (persons less than 18 years old)."

16 28. According to the National Center for Missing & Exploited Children,  
17 their cyber tip line has received more than 50 million reports of suspected child  
18 exploitation from 1998 through 2019, with 18.4 million reports in 2018 alone. The  
19 vast majority of these reports contain child sexual abuse material, most of which is  
20 on the Internet. North America now hosts 37% of child sexual abuse content and  
21 children under the age of 10 now account for 22% of online porn consumption among  
22 those under the age of 18, while 10-14 year-olds make up 36%.<sup>3</sup>

23 29. The link between sexual exploitation and pornographic videos is  
24 undeniable. According to an article by Melissa Farley, 49 percent of sexually  
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26 <sup>2</sup> *Id.*

27 <sup>3</sup> <https://www.prnewswire.com/news-releases/enough-is-enough-calls-on-doj-to-investigate-mindgeek-for-a-trifecta-of-potential-us-law-violations-child-abuse-material-trafficking-videos-and-obscene-content-301196447.html>  
28

1 exploited women say pornographic videos of them were made while they were being  
2 sold for sex.<sup>4</sup>

3 30. As just one example, in 2009, fourteen-year-old girl Rose Kalemba went  
4 for a walk when a man appeared from the shadows, forced her into a car at  
5 knifepoint.<sup>5</sup> He and a second man raped her while a third man filmed parts of the  
6 assault. The men threatened to kill her before they dumped her in the street, a thirty-  
7 minute walk from her house. A few months later, she was browsing MySpace where  
8 several kids from her school were sharing a link. Rose was tagged in the link so she  
9 clicked on it and was directed to Pornhub where several videos had been posted  
10 depicting her attack. The titles of the videos made it clear that she was underage:  
11 “teen crying and getting slapped around” and “teen getting destroyed.” Others  
12 indicated that she was both unconscious and underage: “passed out teen.” One of  
13 the videos had over 400,000 views. Within days, most of the children at Rose’s  
14 school had seen the videos. Rose then emailed Defendants over a period of six  
15 months begging for them to take down the videos with no reply. The videos remained  
16 live. Finally, Rose set up a new email address posing as a lawyer and threatened  
17 legal action if the videos were not removed. Only then did Defendants finally take  
18 down the videos.

## 19 **II. THE TVPA AND TVPRA**

20 31. In response to the growing problem of sex trafficking, in 2000, Congress  
21 passed the Trafficking Victims Protection Act (“TVPA”), which laid the groundwork  
22 for the federal response to human trafficking.

23 32. In 2003, Congress reauthorized the TVPA and passed the Trafficking  
24 Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, § 4(a)(4)(A),  
25

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26 <sup>4</sup> “Renting an Organ for Ten Minutes: What Tricks Tell Us about Prostitution,  
27 Pornography, and Trafficking,” in *Pornography: Driving the Demand in  
28 International Sex Trafficking*, ed. David E. Guinn and Julie DiCaro (Bloomington,  
IN: Xlibris, 2007), 145.

<sup>5</sup> <https://www.bbc.com/news/stories-51391981>

1 117 Stat. 2875, 2878 (2003) (“TVPRA”). Under the TVPRA, trafficking victims can  
2 sue their traffickers in federal court.

3 33. In 2008, Congress amended the TVPRA to make it easier for victims of  
4 trafficking violations to bring civil suits. First, the civil remedy was expanded to  
5 include enterprise liability. It was likewise expanded to include anyone who  
6 “knowingly benefits, financially or by receiving anything of value from participation  
7 in a venture which that person knew or should have known has engaged  
8 in an act in violation of this chapter.” 18 U.S.C. § 1595(a). Second, Congress  
9 expanded the statute’s reach to include extraterritorial jurisdiction for certain  
10 trafficking offenses. *Id.* The statute of limitations is ten years, or ten years after the  
11 victim turned 18 if the victim was a minor. *See id.* § 1595(c).

12 34. Commercialization of sex acts involving minors is a violation of the  
13 TVPRA. Under the TVPRA,

14 (a)Whoever knowingly—

15 (1) in or affecting interstate or foreign commerce, or within the special  
16 maritime and territorial jurisdiction of the United States, recruits, entices,  
17 harbors, transports, provides, obtains, advertises, maintains, patronizes, or  
18 solicits by any means a person; or

19 (2) benefits, financially or by receiving anything of value, from participation  
20 in a venture which has engaged in an act described in violation of paragraph  
21 (1), knowing, or, except where the act constituting the violation of paragraph  
22 (1) is advertising, in reckless disregard of the fact, that means of force, threats  
23 of force, fraud, coercion described in subsection (e)(2), or any combination of  
24 such means will be used to cause the person to engage in a commercial sex  
25 act, or that the person has not attained the age of 18 years and will be caused  
26 to engage in a commercial sex act, shall be punished as provided in subsection

27 (b).

28

1 18 U.S.C. §1591(a). Under §1595(a), not only perpetrators who act “knowingly”  
2 under §1591, but also “whoever knowingly benefits, financially or by receiving  
3 anything of value from participation in a venture which that person knew or should  
4 have known has engaged in an act in violation of this chapter” is civilly liable.

5 35. In 2018, in response to platforms such as those run by Defendants  
6 knowingly allowing human trafficking to occur and profiting from it, Congress  
7 passed the Allow States and Victims to Fight Online Sex Trafficking Act/Stop  
8 Enabling Sex Traffickers Act (FOSTA/SESTA). Pornhub and other tube sites run  
9 by Defendants have traditionally been shielded from liability under Section 230 of  
10 the Communications Decency Act, which protects internet platforms on which  
11 members of the public post their own content. The new statute, however, makes it  
12 illegal to knowingly assist, facilitate, or support sex trafficking, and amends the  
13 Communications Decency Act’s Section 230 safe harbors (which make online  
14 services immune from civil liability for their users’ actions) to authorize enforcement  
15 of federal or state sex trafficking laws.

### 16 **III. DEFENDANTS’ BUSINESS MODEL**

17 36. Defendants constitute a series of privately held companies that operate  
18 many popular pornographic websites, including, among others, Pornhub, RedTube,  
19 and YouPorn. Defendants also operate many adult film production companies,  
20 including Brazzers, Digital Playground, Men.com, Reality Kings, Sean Cody, and  
21 WhyNotBi.com.

22 37. As explained by Defendants’ leadership in a recently authored letter to  
23 the Canadian Parliament:

24 Our flagship video sharing platform is Pornhub. Created  
25 in 2007, Pornhub is a leading free, ad-supported, adult  
26 content hosting and streaming website, offering visitors  
27 the ability to view content uploaded by verified users,  
28 models, and third-party adult entertainment companies.

1 Pornhub Premium, our subscription service, provides  
2 subscribers with additional exclusive studio-produced  
3 content in an ad-free environment.<sup>6</sup>

4 38. In 2019, Pornhub had roughly 42 billion visits, an average of 115 million  
5 visits per day. This made Pornhub the eighth most visited website in the United  
6 States, falling just behind such household names as: Google.com (1st), YouTube.com  
7 (2nd), Facebook.com (3rd), Amazon.com (4th), Yahoo.com (5th), Twitter.com (6th),  
8 and Instagram.com (7th). And beating out such other household names as:  
9 Wikipedia.org, Zillow.com, and Zoom.us.<sup>7</sup>

10 39. Further, according to analytics Defendants have posted on  
11 Pornhub.com, the United States is the top country by volume of Pornhub.com usage  
12 and, Los Angeles, California is the fourth city by volume of the same.

13 40. Defendants' leadership, of course, is aware of its massive success. In  
14 their letter to Canadian Parliament, Defendants' executives wrote:

15 Demand for online adult entertainment is as old as the  
16 internet. Demand for MindGeek's content rivals that of  
17 some of the largest social media platforms. For example,  
18 in 2020, Pornhub averaged over 4 million unique user  
19 sessions per day in Canada alone, equivalent to over 10%  
20 of the adult Canadian population.<sup>8</sup>

21 **A. Defendants' Business Embraces User-Generated Uploads of**  
22 **Commercial Sex Acts**

23 41. The most popular feature on Pornhub is a searchable library. As of  
24 December 1, 2020, Pornhub had about 14,000,000 pornographic videos in its free  
25 video library.

26 <sup>6</sup><https://www.ourcommons.ca/Content/Committee/432/ETHI/Brief/BR11079307/br-external/MindGeek-e.pdf>

27 <sup>7</sup><https://www.similarweb.com/top-websites/united-states/>

28 <sup>8</sup><https://www.ourcommons.ca/Content/Committee/432/ETHI/Brief/BR11079307/br-external/MindGeek-e.pdf>

1           42. Pornhub and many of the other websites operated by Defendants are  
2 “tube sites.” Meaning, Pornhub’s interface is similar to YouTube, with individual  
3 users—not formal studios—uploading much of the content and comments available  
4 for viewing.

5           43. Pornhub depends heavily on this community of user-creators. Until  
6 recently, in order to upload a video or image to Pornhub, all a user need do was create  
7 an account, click on the upload button next to the search bar, upload their content,  
8 and decide whether the content should be shown in standard or high definition.<sup>9</sup>

9           44. The process takes less than ten minutes. A user can post any video or  
10 image of any person doing anything without any consequences. The user does not  
11 have to demonstrate that he or she owns the copyrights in the content, that those  
12 depicted in the content have consented, or that those depicted in the content are of  
13 majority age.

14           45. Defendants make it easy for users to upload to its network of websites  
15 to maximize their exposure, which includes, Pornhub , Redtube, and YouPorn.

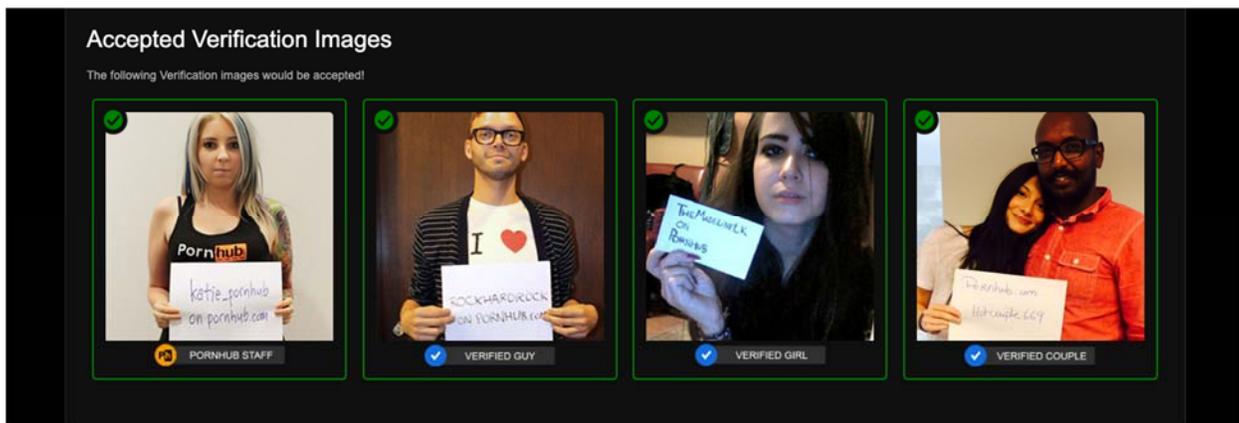
16           46. Defendants also have mechanisms for users to participate in the profits  
17 from their content. For example, to the extent a user is hoping to participate in the  
18 earnings from their uploads to Pornhub, Pornhub has a Model Program, in which  
19 users get “verified” by Pornhub staff and are paid a percentage of the ad revenue  
20 made on their verified content.

21           47. Getting verified in Pornhub’s Model Program only requires a user to  
22 upload a photo purportedly of himself or herself showing their username. In  
23 describing verification, Pornhub encouraged users to “prove that you are real, stand  
24 out and attract more attention from other Pornhub community users!” But all that is  
25 needed is a Pornhub account, an avatar uploaded to the user’s account, and a  
26 verification image. The verification image requires only that the user hold up a photo  
27 with his or her username and pornhub.com written on it (or written on the user’s

28 <sup>9</sup> <https://help.pornhub.com/hc/en-us/articles/229817547-How-do-I-upload-videos->

1 body). Pornhub requires that the video show a picture of the user’s face and required  
2 that the user not wear a mask or sunglasses in the picture.

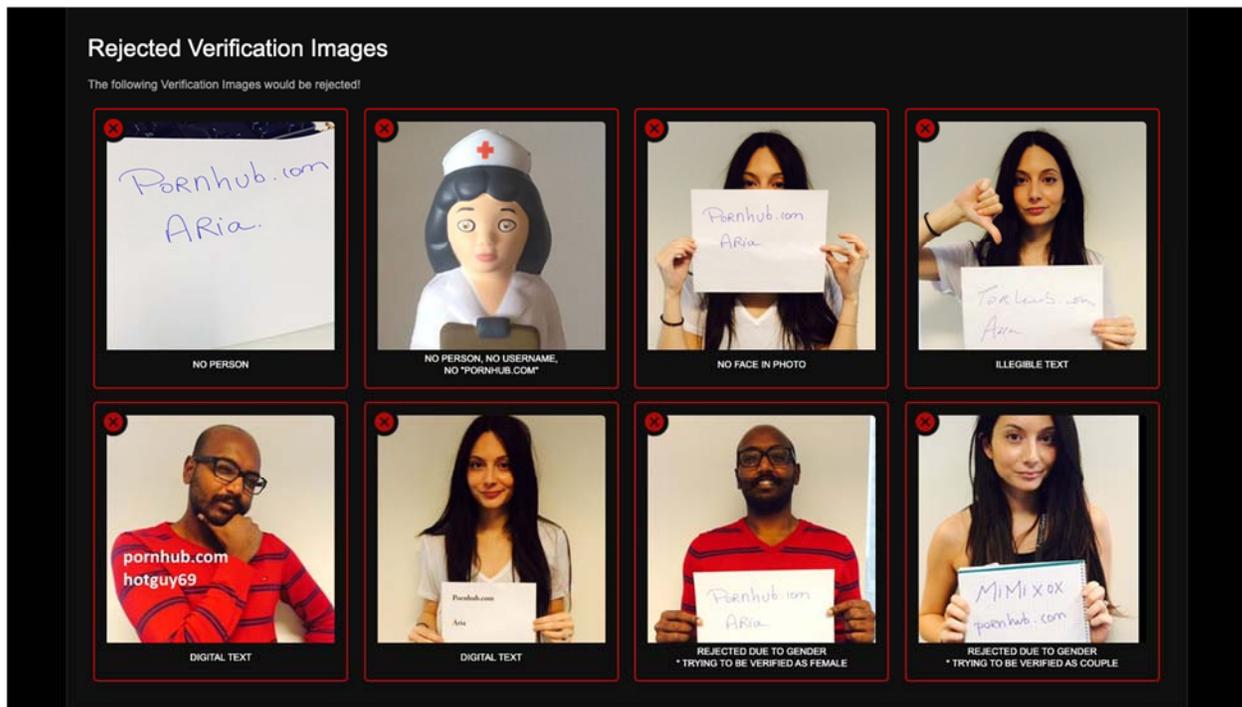
3 48. The below are actual examples given by Pornhub showing all that has  
4 been required for a user to become verified with Pornhub’s “Model Program.”



12 49. In order to sign up in Pornhub’s Model Hub program, a user is not even  
13 required to list his or her birthdate. If a user clicks through the signup process, he or  
14 she is only alerted if they fail to note their gender on the Model Hub application.

15 50. Indeed, Pornhub lists many reasons on their site why a Model Hub  
16 Verification Image might be rejected. The fact that an applicant may not be 18 years  
17 old is not one of the reasons. The only reasons described on Pornhub’s site are: (1)  
18 the photo does not show a person, (2) the photo does not show a username, (3) the  
19 photo does not say “pornhub.com,” (4) the model’s face is not in the photo, (5) the  
20 text is illegible, (6) the text is digital (vs. handwritten), (7) the applicant tries to be  
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1 verified using a gender other than what is listed on their application, and (8) the  
 2 applicant tries to be verified as a couple when the applicant is a single person:

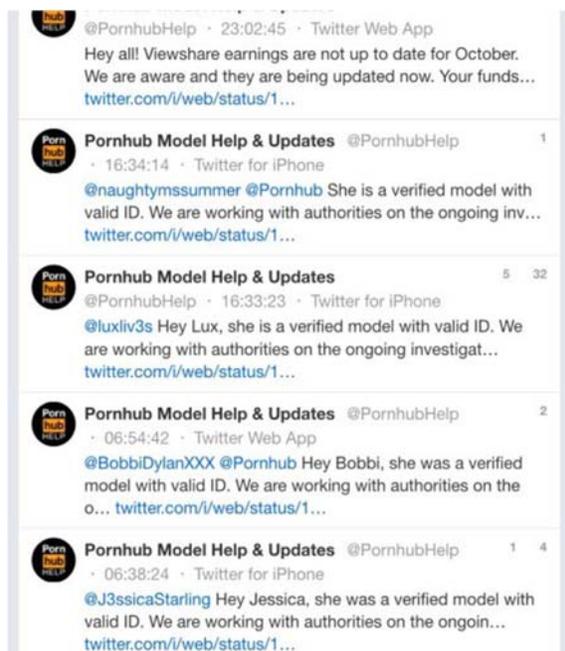


15 51. In short, no age verification exists. The only time age is even referenced  
 16 in the process is when Pornhub requires a user to check a box indicating that they are  
 17 over the age of 18 when uploading their photograph. Defendants take no action to  
 18 confirm the age of the model applicant in the submission process.

19 52. There is also the other problem that even if a Model Hub applicant  
 20 posted a legitimate photo of themselves where they were over the age of 18 in order  
 21 to obtain Pornhub’s “verification” checkmark, there is nothing to stop Model Hub  
 22 users from uploading videos of someone else who is not over the age of 18.

23 53. For “verified” Model Hub users, the name is obviously deceptive, as the  
 24 only thing MindGeek verifies is that someone can hold up a piece of paper with  
 25 writing on it. There is no requirement to use government-issued identification. And  
 26 the verification process has nothing to do with the people **appearing** in the videos or  
 27 images, whose age, as described more below, also went entirely unverified.  
 28

1           54. Clearly, the so-called “verification” process associated with ModelHub  
 2 does nothing to protect victims of child sex trafficking. Pornhub acknowledged as  
 3 much when it admitted to giving its “seal of approval” for 58 videos in which a 15-  
 4 year-old girl was repeatedly assaulted, allowing Pornhub and the victim’s traffickers  
 5 to profit from her repeated rape.



18           55. Another way in which MindGeek stands out is that, until very recently,  
 19 any user of MindGeek could also download videos and images from its websites.  
 20 This meant that even if victims could convince a website to take down a video  
 21 depicting child pornography, their videos were frequently uploaded anew and/or  
 22 recirculated on other websites by users who had already downloaded the content.

## 23           **B. Defendants Knowingly Benefit From Child Sex Trafficking**

### 24           **1. Defendants Have Earned Enormous Profits**

25           56. Defendants generate substantial advertising revenue by hosting  
 26 advertisements on their sites using their TrafficJunky ad network and other sites,  
 27 which receive billions of ad impressions on a daily basis.

1           57. There’s no question that financial considerations drive the content on  
2 MindGeek’s websites. MindGeek collects money from ads featured with its unpaid  
3 videos. It also collects subscriptions from premium users of its websites. Those  
4 subscriptions generated \$1.3 billion in revenue between 2012 and 2018.<sup>10</sup> Following  
5 an investigation from the *New York Times* revealing the extent of child pornography  
6 featured on Pornhub’s website, multiple financial institutions, including Visa,  
7 Mastercard, and Discover, stopped processing transactions for Pornhub. Within  
8 days, Pornhub removed 10 million videos, nearly two-thirds of the videos on its site.  
9 After the *New York Times* investigation, Mindgeek’s auditor, Grant Thornton,  
10 resigned.<sup>11</sup>

11           58. Pornhub has since made modifications to its website, like limiting  
12 content to that posted only by “verified” users in its Model Hub program. Of course,  
13 as described above, restricting content on Pornhub to only “verified” users is  
14 meaningless because Pornhub has no age verification process in place to confirm that  
15 “verified” users are over the age of 18. Nor does Pornhub have a mechanism in place  
16 to confirm that the user posting the video or photograph is the same as the user  
17 depicted in the video or photograph.

## 18                   **2. Defendants Facilitate Child Sex Trafficking By Encouraging** 19                   **Users To Target Underage Content**

20           59. In an effort to attract attention and revenues, users post content that  
21 generates traffic. Often this content is child pornography.

22           60. Defendants knowingly participate in and capitalize on this user interest.  
23 In December of 2020, searches of Pornhub for terms like “girlsunder18” or “14yo”  
24 lead to more than 100,000 videos.<sup>12</sup> What’s more, Pornhub has recently offered

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26 <sup>10</sup> [https://www.irishtimes.com/business/economy/grant-thornton-resigns-as-auditor-to-firms-  
owned-by-pornhub-operator-1.4480517](https://www.irishtimes.com/business/economy/grant-thornton-resigns-as-auditor-to-firms-owned-by-pornhub-operator-1.4480517)

27 <sup>11</sup> *Id.*

28 <sup>12</sup> [https://www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-  
trafficking.html](https://www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-trafficking.html)

1 playlists with names like “less than 18,” “the best collection of young boys,” and  
2 “under---age” in an effort to entice users who would like to see content featuring  
3 underage victims.<sup>13</sup> Pornhub also allows members with names like “13yoboyteen”  
4 to post videos.<sup>14</sup> And Defendants have intentionally deleted words from video titles  
5 that describe criminal content, but left the actual videos on its site.

6 61. Defendants also use the massive quantity of data it collects about its  
7 users to facilitate the distribution of child pornography. By collecting data about its  
8 users, Defendants are able to track users preferences. When a user signs up to for a  
9 Pornhub account, he or she is directed to fill out a survey describing their preferences,  
10 including hair, color, body art, ethnicity, and breast size. The user describes their  
11 sex, sexual preference, and whether they are single or part of a couple. The user is  
12 also presented with dozens of Pornhub categories to choose from, including  
13 “babysitter,” “college,” and “school” categories. Pornhub also recommends that  
14 users sign up to follow certain channels, “pornstars,” and community members to  
15 better target the content they receive. And, of course, Pornhub asks whether a user  
16 prefers to view “professional” or “homemade” videos. Pornhub then uses this  
17 information to target users with videos that suit their preferences.

18 62. Even for users who don’t voluntarily provide all of this data to Pornhub,  
19 Pornhub acquires a significant amount of data. Whenever a user views a page on  
20 Pornhub, the website automatically receives their IP address, how full their battery  
21 is, what browser version they are using, their time zone, their system fonts, their  
22 screen resolution, and what plugins they have installed.<sup>15</sup> This allows Pornhub to  
23 create a digital fingerprint that tracks users over time and across websites. As  
24 Pornhub learns more about its users’ preferences, it suggests videos it thinks they  
25 will like. So if a user indicates a preference for child pornography, Pornhub  
26 intentionally directs that user to its illegal content.

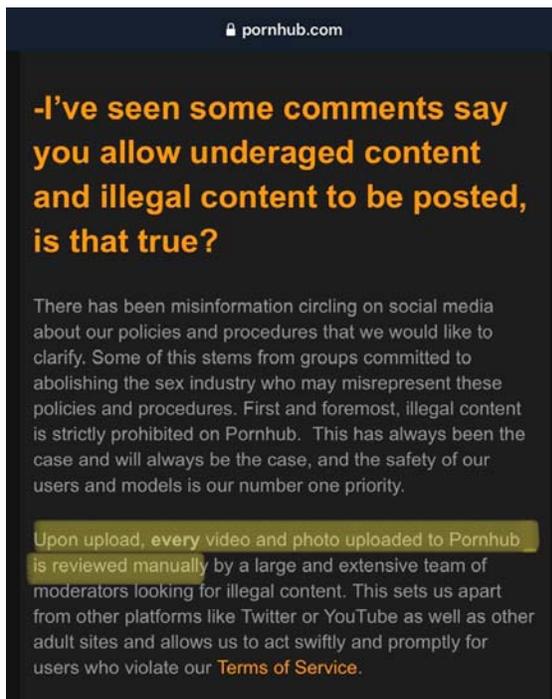
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27 <sup>13</sup> *Id.*

28 <sup>14</sup> *Id.*

<sup>15</sup> <https://www.vice.com/en/article/kzmmpa/pornhub-xhamster-data-about-you>

1           63. Besides the entirely inadequate verification process described above,  
2 Defendants’ only “protection” against the posting of underage content and other  
3 illegal content is that they hires certain moderators who view “every video and photo  
4 uploaded to Pornhub.”



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17           64. Although Defendants claim the goal of content moderation is to locate  
18 and prevent the streaming of child pornography and other illegal material, the truth  
19 is that “the goal for a content moderator is to let as much content as possible go  
20 through” because Defendants’ focus is maximizing revenue.<sup>16</sup>

21           65. Defendants’ profit-maximizing goal is made plain by the following:  
22 Despite the fact that 1.36 million new hours of video are uploaded each year to  
23 Pornhub, Defendants employ only 80 moderators across all of its websites  
24 worldwide.<sup>17</sup> By contrast, Facebook has 15,000 moderators.<sup>18</sup>

25  
26  
27 <sup>16</sup> [https://www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-  
trafficking.html](https://www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-trafficking.html)

28 <sup>17</sup> *Id.*

<sup>18</sup> *Id.*

1           66. On information and belief, only around ten people on Defendants’  
2 moderator team are working at any given time throughout the day. They also lack  
3 any specialized training.

4           67. Looking just at the year 2019, according to Pornhub there were  
5 approximately 18,000 videos uploaded to that website daily, with an average length  
6 of approximately 11 minutes each.<sup>19</sup> Assuming each of the 10 moderators were  
7 focused solely on Pornhub, and worked a full 8-hour shift, they would be required to  
8 review 1,800 11-minute videos every day, where they are screening for not just child  
9 pornography but other inappropriate content such as bestiality and even murder.  
10 That’s 19,800 minutes of upload every day, meaning a single moderator is somehow  
11 required to view 2,475 minutes per hour.

12           68. Defendants know that that is an impossible task, and that it necessarily  
13 leads to moderators quickly fast forwarding through, or even skipping videos/images  
14 entirely.

15           69. But Defendants’ business model profits from sexual videos and images  
16 featuring underage victims, and Defendants’ claim that it acts “swiftly and promptly”  
17 when users violate its Terms of Service is belied by the many stories of victims whose  
18 photos and videos have been streamed on Pornhub for years with no action.

19           70. Notably, on Pornhub’s ModelHub page, Defendants advertise their  
20 ability to use DMCA and fingerprinting to protect pirating of videos. Meaning, when  
21 it comes to preserving revenue, Defendants have long since demonstrated both an  
22 interest and technical ability to monitor and protect against access. Despite being  
23 fully aware of the problem of child trafficking, Defendants did not employ similarly  
24 advanced methods to filter for underage or other illegal content.<sup>20</sup>

25  
26  
27 <sup>19</sup> <https://www.pornhub.com/insights/2019-year-in-review>

28 <sup>20</sup> [https://www.pornhub.com/partners/models?\\_ga=2.200643118.1816855087.1613736072-62734983.1613736072](https://www.pornhub.com/partners/models?_ga=2.200643118.1816855087.1613736072-62734983.1613736072)

1                   **3. Defendants Have Admitted That Videos Featuring Underage**  
2                   **Persons Are Some Of The Most Popular/Sought-After**  
3                   **Content In Its Entire Library**

4           71. In its explanation of “How to Succeed,” on Defendants’ Pornhub  
5 website, Defendants direct users to use up to 16 tags that describe the video and  
6 performers; select up to 8 relevant categories; when applicable, use niche specific  
7 categories to ensure content is visible to the “right” fans; write a creative title that  
8 describes the scene, and add a stage name to the title of the video. These tactics are  
9 all designed to generate as much traffic as possible. The more sensational the video,  
10 the more likely it is to be streamed and generate revenues. Defendants’ categories  
11 demonstrate how it is specifically targeting viewers who are interested in child  
12 pornography, with categories like “teen,” “school,” “babysitter” and “old/young.”<sup>21</sup>  
13 On the page explaining video categories, Defendants acknowledged that Teen is one  
14 of its most popular categories.<sup>22</sup>

15           72. Defendants’ description of what titles to use similarly reflects their  
16 instructions to users to make titles “enticing” so that “users will be curious enough  
17 to click!”<sup>23</sup> For example, in its explanation of a bad vs. good title selection,  
18 Defendants describe how adding that a student is a participant in the video will entice  
19 users to click.<sup>24</sup>

20                   **C. Defendants Know That Its Websites Are Known For Sex**  
21                   **Trafficking Activity**

22           73. This is not a situation where Defendants can credibly claim ignorance.  
23 There are numerous ways in which Defendants have been made aware of the fact that  
24 its websites have become a go-to home for child pornography.

26 \_\_\_\_\_  
27 <sup>21</sup> <https://help.pornhub.com/hc/en-us/articles/115007986887-Video-Categories>

28 <sup>22</sup> *Id.*

<sup>23</sup> <https://help.pornhub.com/hc/en-us/articles/115007986747-Video-Titles>

<sup>24</sup> *Id.*

1                   **1. The Presence Of Underage Pornography Is Obvious From**  
2                   **Language On Defendants’ Own Websites**

3           74. To start, Defendants need go no further than the language used on their  
4 own websites.

5           75. For example, until very recently, a simple search of PornHub revealed  
6 countless examples of the presence—and indeed aggressive marketing—of underage  
7 pornography.

8           76. As just one example, the *New York Times* recently reported that, as of  
9 December 4, 2020, a search on Pornhub for “girlunder18” led to more than 100,000  
10 videos.<sup>25</sup>

11           77. Similarly, as of December 4, 2020, a search on Pornhub for “14yo” led  
12 to more than 100,000 videos.<sup>26</sup> And a search for “13yo” led to approximately  
13 155,000 videos.<sup>27</sup> “Girl with braces” turned up 1,913 videos and suggested to also  
14 try searching for “exxxtra small teens.”<sup>28</sup>

15           78. The *Sunday Times* similarly reported that, as of November 2019, while  
16 Pornhub had blocked users from searching terms such as “underage” and “child  
17 porn”, synonyms including “jailbait”, “very young girl”, and “lolita” could still be  
18 used to locate content.<sup>29</sup>

19           79. Beyond the searches, Defendants have allowed members with  
20 usernames such as “13yoboyteen” to post videos to Pornhub, and recently promoted  
21 “playlists” with names such as “less than18,” “the best collection of young boys” and  
22 “under—age.”

23  
24 <sup>25</sup> <https://www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-trafficking.html>

25 <sup>26</sup> <https://www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-trafficking.html>

26 <sup>27</sup> <https://www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-trafficking.html>

27 <sup>28</sup> <https://www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-trafficking.html>

28 <sup>29</sup> *Need cite.*

1                   **2. Presence Of Underage Pornography Brought To**  
2                   **Defendants’ Attention Via Victims**

3           80. Victims and their families have also notified Defendants of the presence  
4 of child pornography on their websites.

5           81. Rose Kalemba, described in paragraph 30, spent six months emailing  
6 various employees of Defendants in vain, begging them to take down the footage of  
7 her abuse.<sup>30</sup>

8           82. In her own words: “I sent Pornhub begging emails. I pleaded with them.  
9 I wrote, ‘Please, I’m a minor, this was assault, please take it down.’” She received  
10 no reply and the videos remained live.<sup>31</sup>

11           83. It was only removed after Ms. Kalemba had the idea to create a new  
12 email account, posed as a lawyer, and send a threatening email, that Pornhub finally  
13 took down the content.<sup>32</sup>

14           84. Serena Fleites. Ms. Fleites, aged just 14, was recorded in a video that  
15 was then uploaded to PornHub.<sup>33</sup> In testimony before the House of Commons ethics  
16 committee, she explained; “The titles would always be something like ‘preteen,’  
17 ‘young teen.’”

18           85. Ms. Fleites further testified that it took Pornhub more than a week to  
19 remove the video, which it only agreed to do after she was asked multiple times to  
20 prove that it was, in fact, her video and that she was underage. As she put it: “It was  
21 very obvious it was a child in the video . . . Even if I wasn’t the girl in that video,  
22 they could still tell that was a child in that video and they were still dragging out that  
23 process.”<sup>34</sup>

24  
25 <sup>30</sup> <https://www.bbc.com/news/stories-51391981>

26 <sup>31</sup> <https://www.bbc.com/news/stories-51391981>

27 <sup>32</sup> <https://www.bbc.com/news/stories-51391981>

28 <sup>33</sup> <https://www.thestar.com/news/canada/2021/02/01/child-porn-victim-testifies-during-day-1-of-pornhub-discussions-at-committee.html>

<sup>34</sup> <https://www.thestar.com/news/canada/2021/02/01/child-porn-victim-testifies-during-day-1-of-pornhub-discussions-at-committee.html>

1 86. Avri Sapir. 19-year-old sex abuse survivor-turned-activist Ms. Sapir  
2 posted the following to twitter:



12 87. She went on to explain: “The more views they got, the more ads were  
13 put around and in front of the videos. I flagged the videos as ‘underage’ and filled  
14 out the ‘content removal request form’, but nothing happened. I watched the view  
15 count tick up faster and faster.”<sup>35</sup>

### 16 3. Presence Of Underage Pornography Brought To 17 Defendants’ Attention Via Third-Party Reporting

18 88. Numerous media outlets have also notified Defendants of the presence  
19 of child pornography on their websites.

20 89. In October of 2018, numerous print outlets ranging from the *New York*  
21 *Post*<sup>36</sup> to the *Mercury News*<sup>37</sup> reported that an investigation was launched after a high  
22 school student recognized his classmate—a 14-year-old girl—in a video uploaded to  
23 Pornhub. The video depicted the young girl being sexually assaulted by a substitute  
24 teacher. The classmate notified the principal, who in turn contacted authorities.

25 <sup>35</sup> <https://www.nzherald.co.nz/world/child-abuse-victim-says-pornhub-profited-from-her-child-rape/W2MFWK6XLXP5RFYETS7J7LVBSQ/>

26 <sup>36</sup> <https://nypost.com/2018/10/26/videos-on-pornhub-showed-female-teacher-having-sex-with-teen-girl-cops/>

27 <sup>37</sup> <https://www.mercurynews.com/2018/10/26/pornhub-videos-lead-to-redwood-city-womans-arrest/>

1           90. Just one month later, in November 2019, the *Sunday Times* of London  
2 published an investigation in which it questioned Pornhub’s claim that it “bans  
3 content showing under-18s and removes it swiftly.”<sup>38</sup> It reported that, in just minutes  
4 of searching on the website, it was able to find dozens of examples of illegal material.  
5 Including an entire account called “Candid teen asses,” devoted to posting covertly  
6 filmed “creepshots” of girls in their school uniforms.<sup>39</sup> And then there were the  
7 videos featuring victims as young as three years old.<sup>40</sup>

8           91. Many of the videos the newspaper located had more than 350,000 views,  
9 and had had been on the platform for years.<sup>41</sup>

10          92. Even after the *Sunday Times* flagged certain specific videos for  
11 Defendants, three of the worst clips remained on Pornhub some 24 hours later.<sup>42</sup>

12          93. More recently, *New York Times* columnist Nicholas Kristof wrote a  
13 lengthy article entitled: “The Children of Pornhub: Why does Canada allow this  
14 company to profit off videos of exploitation and assault? That article is described in  
15 more detail below.

16                           **4. Presence Of Underage Pornography Brought To**  
17                           **Defendants’ Attention Via Advocacy Groups**

18          94. Numerous advocacy groups have devoted significant resources to  
19 bringing attention to the ubiquitous problem of child pornography on Defendants’  
20 various websites.

21          95. The Internet Watch Foundation, which assesses and gets removed from  
22 the internet child sexual abuse images and videos every year, reported that it found  
23  
24

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25 <sup>38</sup> [https://www.thetimes.co.uk/article/unilever-and-heinz-pay-for-ads-on-pornhub-](https://www.thetimes.co.uk/article/unilever-and-heinz-pay-for-ads-on-pornhub-the-worlds-biggest-porn-site-knjzlmwzv)  
26 [the-worlds-biggest-porn-site-knjzlmwzv](https://www.thetimes.co.uk/article/unilever-and-heinz-pay-for-ads-on-pornhub-the-worlds-biggest-porn-site-knjzlmwzv)

27 <sup>39</sup> *Id.*

28 <sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

1 118 instances of child sexual abuse imagery on Pornhub between 1 January 2017,  
2 and 29 October 2019.<sup>43</sup>

3 96. TraffickingHub has also launched a worldwide campaign to bring  
4 attention to Defendants' bad acts, including gathering over 2 million signatures for a  
5 petition to shut down Pornhub and hold its executives accountable for aiding  
6 trafficking.<sup>44</sup>

7 **5. Presence of Underage Victims Brought to Defendants'**  
8 **Attention Via Government-Led Investigations**

9 91. The governments of multiple countries have also become involved in  
10 this issue, launching investigations into the Pornhub's wrongdoing.

11 92. In the United States, Senator Ben Sasse wrote to U.S. Attorney General  
12 Bill Barr, calling for a federal investigation into Pornhub and its owner MindGeek  
13 for their involvement in streaming videos of raped and exploited women and  
14 children. In his letter he explained:

15 In several notable incidents over the past year, Pornhub  
16 made content available worldwide showing women and  
17 girls that were victims of trafficking being raped and  
18 exploited. Indeed, the problem of Pornhub streaming  
19 content featuring women and children victims of sex  
20 trafficking reached the point in November that Paypal cut  
21 off services for Pornhub, refusing to facilitate this abuse  
22 any longer... Pornhub must not escape scrutiny. I  
23 therefore request that the Department open an  
24 investigation into Pornhub and its parent entity MindGeek  
25 Holding SARL for their involvement in this disturbing  
26

27 <sup>43</sup> <https://www.iwf.org.uk/news/pornhub-data-out-of-context-tells-us-nothing>

28 <sup>44</sup> <https://traffickinghub.com/>

1 pipeline of exploiting children and other victims and  
2 survivors of sex trafficking.<sup>45</sup>

3 93. The same calls for action are being heard in Canada, where Canadian  
4 Members of Parliament from four parties sent an open letter to Canada’s Minister of  
5 Justice, Attorney General David Lametti, along with Prime Minister Justin Trudeau,  
6 demanding a government response to what is happening on Pornhub.<sup>46</sup>

7 **D. The New York Times Investigation**

8 94. Despite their apparent knowledge of this growing problem, for over a  
9 decade, Defendants took no action.

10 95. Then, in December 2020, Nicholas Kristof of the *New York Times*  
11 published a detailed investigation that chronicled all the ways Pornhub monetizes  
12 child rapes and revenge pornography.<sup>47</sup> “The site is infested with rape videos,”  
13 Kristof wrote. “It monetizes child rapes, revenge pornography, spy cam videos of  
14 women showering, racist and misogynist content, and footage of women being  
15 asphyxiated in plastic bags.”

16 96. Kristof wrote that there are more than 6.8 million new videos posted on  
17 Pornhub each year, many of which depict child abuse.

18 97. The story referenced a woman named Cali who was forced to appear in  
19 pornographic videos beginning at the age of nine, many of which ended up on  
20 Pornhub and regularly reappear there. Kristof described how he came across many  
21 videos on Pornhub featuring unconscious girls, with rapists opening the eyelids of  
22 the victims and touching their eyeballs to demonstrate that they were, in fact,  
23 unconscious.

24 98. Kristof wrote: “In the last few days as I was completing this article, two  
25 new videos of prepubescent girls being assaulted were posted, along with a sex video

26 <sup>45</sup> [https://www.sasse.senate.gov/public/\\_cache/files/06557325-43d1-4aed-8e34-27cf8cbdfb13/3-10-20-sasse-letter-to-ag-barr.pdf](https://www.sasse.senate.gov/public/_cache/files/06557325-43d1-4aed-8e34-27cf8cbdfb13/3-10-20-sasse-letter-to-ag-barr.pdf)

27 <sup>46</sup> <https://twitter.com/ArnoldViersen/status/1331647921692041216?s=20>

28 <sup>47</sup> <https://www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-trafficking.html>

1 of a 15-year-old girl who was suicidal after it went online. I don't see how good-  
2 faith moderators could approve any of these videos."

3 99. Of course, the problem is that the moderators are not acting in good  
4 faith. They are trying to get as much content through as possible to ensure traffic,  
5 because traffic equals profits.

6 **E. Financial Institutions Cut Ties with Defendants**

7 100. Kristof's article called for Visa, Mastercard, and American Express to  
8 suspend cooperation with Pornhub. Mastercard launched its own investigation into  
9 Kristof's claims and said it found them to be substantiated. In a statement,  
10 Mastercard said: "The use of our cards at Pornhub is being terminated. Our  
11 investigation over the past several days has confirmed violations of our standards  
12 prohibiting unlawful content on their site. As a result, and in accordance with our  
13 policies, we instructed the financial institutions that connect the site to our network  
14 to terminate acceptance."<sup>48</sup>

15 101. Visa followed suit. Although its investigation is ongoing, Visa  
16 suspended Pornhub's acceptance privileges while its investigation is underway and  
17 instructed the financial institutions who serve Defendants to suspend processing of  
18 payments through the Visa network.<sup>49</sup>

19 102. Discover also cut ties with Pornhub. "We require our financial  
20 institution partners to monitor for and prevent card acceptance at merchants that  
21 allow illegal or any other prohibited activities that violate our operating standards,"  
22 Discover said in a statement. "When Discover determines merchants are offering  
23 prohibited activity, we promptly terminate card acceptance through the offending  
24 merchant's financial institution."<sup>50</sup>

25  
26 \_\_\_\_\_  
27 <sup>48</sup> [https://www.cnn.com/2020/12/14/business/mastercard-visa-discover-](https://www.cnn.com/2020/12/14/business/mastercard-visa-discover-pornhub/index.html)  
[pornhub/index.html](https://www.cnn.com/2020/12/14/business/mastercard-visa-discover-pornhub/index.html)

28 <sup>49</sup> *Id.*

<sup>50</sup> *Id.*

1           **F. Defendants Remove Millions of Videos from Their Sites**

2           103. Within days of the financial institutions cutting ties with Pornhub,  
3 Defendants finally took some action. Most notably, they removed all content  
4 previously uploaded to its Pornhub website by unverified users, bringing the total  
5 number of videos on that one site down from 13 million to 4 million.<sup>51</sup> On  
6 information and belief, they did nothing, however, to confirm that any of the  
7 individuals featured in any of the 4 million videos that remained on the website were  
8 of consenting adults.

9           104. Defendants also announced that they were removing the ability for users  
10 to download content from Pornhub (with the exception of paid downloads from the  
11 “verified” Model Program), along with other changes. Despite these announcements,  
12 as evidenced in paragraphs 47-54 above, nothing substantive appears to have  
13 changed because the Model Program has no age verification requirement.<sup>52</sup>

14           **IV. JANE DOE’S EXPERIENCE AS A VICTIM OF DEFENDANTS’ SEX**  
15           **TRAFFICKING**

16           105. Jane Doe was in high school when her boyfriend created four videos of  
17 the two of them engaging in sexual intercourse. She was sixteen years old at the time  
18 the videos were recorded, and some of the videos were recorded without her  
19 knowledge let alone consent.

20           106. The relationship ended when Jane Doe’s boyfriend pushed her out of his  
21 moving car onto the street, dragging her until she was able to free herself.

22           107. After the relationship ended, Jane Doe learned from a mutual friend that  
23 her ex-boyfriend has posted multiple videos online of the two of them engaging in  
24 sexual intercourse. Jane Doe is clearly identifiable in the videos, which were posted  
25 to various websites, including Pornhub.com, from the period of December 2019 to  
26 the present.

27 <sup>51</sup> <https://www.theguardian.com/technology/2020/dec/14/pornhub-purge-removes-unverified-videos-investigation-child-abuse>

28 <sup>52</sup> <https://www.pornhub.com/blog/11422>

1 108. The postings were accompanied by crude, disparaging, misogynistic  
2 and/or racist remarks.

3 109. The circulation of the videos and images has caused Ms. Doe great  
4 anxiety, distress and sleeplessness. She has had recurring thoughts of contemplating  
5 suicide and feelings of hopelessness, resulting in withdrawing from school and  
6 seeking therapy.

7 110. The videos were on Pornhub for nearly a month before Jane Doe was  
8 made aware of them. Ms. Doe immediately reached out to Pornhub to have the  
9 videos taken down on March 26, 2020. While Pornhub ultimately removed the  
10 videos, they warned Ms. Doe: “We have taken it upon ourselves to fingerprint the  
11 content with Vobile on your behalf. This should effectively block future uploads of  
12 the videos. Please note that we offer no guarantee. We do not operate the Vobile  
13 service. Furthermore we recommend that you educate yourself on their services and  
14 the limitations of digital fingerprinting technology.”

15 111. Apparently it is on Ms. Doe to ensure that the videos are never uploaded  
16 anew to Pornhub, or any of Defendants’ numerous other websites, again.

17 **CLASS ACTION ALLEGATIONS**

18 112. Plaintiff brings this action on her own behalf, and on behalf of a class  
19 pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure. The Class  
20 is defined as:

21 all persons who were under the age of 18 when they appeared in a video  
22 or image that has been uploaded or otherwise made available for  
23 viewing on any website owned or operated by Defendants in the last ten  
24 years.

25 113. Plaintiff also brings this action on behalf of:

26 all persons residing in California who were under the age of 18 when  
27 they appeared in a video or image that has been uploaded or otherwise  
28

1 made available for viewing on any website owned or operated by  
2 Defendants in the last ten years (the “California Subclass”).

3 114. The members of the Class are so numerous that joinder of all members  
4 is impracticable. While the exact number of Class members is unknown to Plaintiff  
5 at this time and can only be ascertained through appropriate discovery, Plaintiff  
6 believes that there are many thousand members of the Class. Absent members of the  
7 Class may be notified of the pendency of this action using a form of notice similar to  
8 that customarily used in purchaser class actions.

9 115. Plaintiff’s claims are typical of the claims of the members of the Class,  
10 as all members of the Class were similarly affected by Defendants’ wrongful  
11 common course of conduct complained of herein.

12 116. Plaintiff will fairly and adequately protect the interests of the members  
13 of the Class and has retained counsel competent and experienced in class action  
14 litigation.

15 117. Common questions of law and fact exist as to all members of the Class  
16 and predominate over any questions solely affecting individual members of the Class.  
17 Among the questions of law and fact common to the Class are:

- 18 (a) Whether Defendants knowingly benefitted from child  
19 trafficking;
- 20 (b) Whether user-generated uploads on Defendants’ websites  
21 feature underage victims;
- 22 (c) Whether Defendants knew or should have known that there were  
23 videos and/or images of underage victims on its websites; and
- 24 (d) Whether Defendants’ age verification system prevents users  
25 from uploading child pornography.
- 26 (e) Whether Defendants have earned profits from child trafficking;

27 118. A class action is superior to all other available methods for the fair and  
28 efficient adjudication of this controversy, since joinder of all members is

1 impracticable. The damages suffered by individual Class members may be relatively  
2 small, the expense and burden of individual litigation makes it virtually impossible  
3 as a practical matter for members of the Class to redress individually the wrongs done  
4 to them. There will be no difficulty in the management of this action as a class action.

5 **FIRST CLAIM FOR RELIEF**  
6 **TRAFFICKING VICTIMS PROTECTION ACT**

7 **18 U.S.C. §§ 1591, 1595**

8 **(Against All Defendants)**

9 119. Plaintiff incorporates each and every allegation set forth above as if fully  
10 set forth herein.

11 120. Defendants knowingly used the instrumentalities of interstate commerce  
12 to violate 18 U.S.C. § 1595.

13 121. Defendants knowingly benefit from child trafficking by benefitting  
14 financially from videos/images viewable on their websites that depict victims who  
15 are underage. Defendants make substantial profits with almost three billion ad  
16 impressions each day, many of which are attributable to content posted of underage  
17 victims.

18 122. Defendants knew or should have known that the videos and images  
19 featured on their websites depicted sex trafficking. Defendants have repeatedly been  
20 made aware of the child pornography on their websites by victim's complaints, third-  
21 party reporting, advocacy groups, and government investigations. Defendants knew  
22 or should have known that their websites are known for child sex trafficking based  
23 on all of this information.

24 123. Defendants monetized child trafficking on their websites through  
25 revenues generated by subscriptions and advertisements.

26 124. Rather than take action to combat the problem of child sex trafficking,  
27 Defendants intentionally catered their websites to facilitate sex trafficking and make  
28 it easier for traffickers to monetize underage victims in commercial sex acts.

1 125. Defendants not only maintained affiliations with sex traffickers by  
2 enabling the posting of child pornography on their websites, they have strengthened  
3 those affiliations by making it easier to connect traffickers with those who want to  
4 view child pornography. Defendants create playlists that target those interested in  
5 child pornography; feature categories on their websites that target users interested in  
6 child pornography; instructs users to describe their videos using categories like  
7 “teen” to drive traffic; and decline to take down child pornography that generates  
8 significant streams.

9 126. Defendants have repeatedly featured victims who have not attained the  
10 age of 18 years in videos/images on its websites. The victims have engaged in  
11 commercial sex acts because all of the videos featured on its websites generate  
12 revenue for Defendants and/or traffickers and depict sex acts.

13 127. Defendants had a reasonable opportunity to observe the victims featured  
14 on its websites because their moderators had the opportunity to view all of the content  
15 posted thereon.

16 128. Defendants’ conduct has harmed the Class by causing physical,  
17 psychological, financial, and reputational harm.

18 **SECOND CLAIM FOR RELIEF**  
19 **VIOLATION OF DUTY TO REPORT CHILD**  
20 **SEXUAL ABUSE MATERIAL**

21 **18 U.S.C. § 2258A**

22 **(Against All Defendants)**

23 129. Plaintiff incorporates each and every allegation set forth above as if fully  
24 set forth herein.

25 130. As an “electronic communication service provider,” Defendants’  
26 websites are a “provider” under 18 U.S.C. § 2258E(6) and 2258A.

1 131. Defendants obtained actual knowledge that there was online sexual  
2 exploitation material of children being published on their websites, which was an  
3 apparent violation of 18 U.S.C. § 2252.

4 132. Defendants knowingly engaged in intentional misconduct by ignoring  
5 clear notice of the presence of actual online sexual exploitation material of children.  
6 18 U.S.C. § 2258B(b)(1).

7 133. Defendants' conduct constitutes a failure to act with reckless disregard  
8 to a substantial risk of causing physical injury without physical justification. 18  
9 U.S.C. § 2258B(b)(2)(B).

10 134. Defendants' conduct constitutes a failure to act for a purpose unrelated  
11 to the performance of any responsibility or function under 18 U.S.C. §§  
12 2258B(b)(2)(C).

13 135. Defendants' conduct has seriously harmed the Class, including without  
14 limitation, physical, psychological, financial, and reputational harm.

15 **THIRD CLAIM FOR RELIEF**

16 **RECEIPT AND DISTRIBUTION OF CHILD PORNOGRAPHY**

17 **18 U.S.C. § 2252A**

18 **(Against All Defendants)**

19 136. Plaintiff incorporates each and every allegation set forth above as if fully  
20 set forth herein.

21 137. Defendants knowingly and intentionally offer, operate, maintain an  
22 advertise on their websites. Defendants also knowingly and intentionally encourage  
23 traffic on their websites and encourage advertisers to purchase advertisement space  
24 thereon.

25 138. Defendants knowingly received and distributed child pornography  
26 depicting Plaintiff and the Class on their websites.

27 139. Defendants' receipt and distribution of child pornography occurred in  
28 or affected interstate or foreign commerce.

1 140. As a proximate result of Defendants’ violation of 18 U.S.C. § 2252A,  
2 Plaintiff and the Class have suffered serious harm including, without limitation,  
3 physical, psychological, financial, and reputational harm.

4 141. Defendants’ conduct was malicious, oppressive, or in reckless disregard  
5 of Plaintiff’s rights and the Class’ rights and Plaintiff and the Class are entitled to  
6 injunctive relief, compensatory and punitive damages, and the costs of maintaining  
7 this action. 18 U.S.C. § 2252A(f).

8 142. Defendants’ liability for knowingly violating 18 U.S.C. § 2252A is not  
9 limited by 47 U.S.C. § 230 because nothing in Section 230 “shall be construed to  
10 impair the enforcement of [ ] chapter [ ] 110 (relating to sexual exploitation of  
11 children) [ ] or any other Federal criminal statute.” 47 U.S.C. § 230(e)(1).

12 **FOURTH CLAIM FOR RELIEF**  
13 **DISTRIBUTION OF PRIVATE SEXUALLY EXPLICIT**  
14 **MATERIALS, CAL. CIV. CODE § 1708.85**

15 **(Against All Defendants)**

16 **(On behalf of California Subclass)**

17 143. Plaintiff incorporates each and every allegation set forth above as if fully  
18 set forth herein.

19 144. Defendants intentionally distributed child pornography.

20 145. Plaintiff and the Class did not consent to the online distribution of the  
21 videos and images depicting them.

22 146. Defendants knew Plaintiff and the Class had a reasonable expectation  
23 that the videos depicting them would remain private.

24 147. The videos depicted on Pornhub exposed intimate body parts of Plaintiff  
25 and the Class.

26 148. Plaintiff and the Class were harmed by Defendants’ knowing and  
27 intentional distribution of child pornography and Defendants’ conduct was a  
28 substantial factor in causing harm to Plaintiff and the Class.

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**FIFTH CLAIM FOR RELIEF**  
**VIOLATION OF CALIFORNIA’S UNFAIR COMPETITION LAW (“UCL”)**  
**Cal. Bus. & Prof. Code § 17200**  
**(Against All Defendants)**  
**(On behalf of California Subclass)**

149. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

150. Defendants have violated the UCL by engaging in unlawful, unfair, and fraudulent business acts and practices.

151. Defendants knowingly had inadequate age verification systems in place that enabled users to upload child pornography to Defendants’ websites.

152. Defendants’ conduct constitutes an unlawful, unfair, and fraudulent business act and practice.

**SIXTH CLAIM FOR RELIEF**  
**UNJUST ENRICHMENT**  
**(Against All Defendants)**

153. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

154. Defendants profited off of videos and images depicting Plaintiff and the Class on Defendants’ websites.

155. By permitting users to upload videos and images of Plaintiff and the Class and profiting from those videos and images, Defendants have become unjustly enriched at the expense of Plaintiff and the Class in an amount to be determined at trial.

**PRAYER FOR RELIEF**

WHEREFORE, plaintiff prays for judgment, as follows:

A. Determine that this action is a proper class action under Rule 23 of the Federal Rules of Civil Procedure and appointing plaintiff’s counsel as Class counsel;

1 B. Award injunctive relief sufficient to bring Defendants’ policies in  
2 compliance with the TVPRA.

3 C. Award compensatory and punitive damages in favor of Plaintiff and the  
4 Class against all Defendants, jointly and severally, for all damages sustained as a  
5 result of defendants’ violations of the law, in an amount to be proven at trial,  
6 including prejudgment interest thereon.

7 D. Award Plaintiff and the Class reasonable attorneys’ fees, costs and  
8 expenses incurred in this action, including expert fees.

9 E. Award such other and further relief as the Court may deem just and  
10 proper.

11 Dated: February 19, 2021

12 DAVIDA BROOK  
13 KRYSTA KAUBLE PACHMAN  
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**JURY DEMAND**

Pursuant to Fed. R. Civ. P. 38(b), plaintiff demands trial by jury of all of the claims asserted in this complaint so triable.

Dated: February 19, 2021

DAVIDA BROOK  
KRYSTA KAUBLE PACHMAN  
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