

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION**

JANE DOE #1, and JANE DOE #2, on)
behalf of themselves and all others)
similarly situated,)

Plaintiffs,)

v.)

MG FREESITES, LTD, d/b/a)
“PORNHUB”, a foreign entity; MG)
FREESITES II LTD, a foreign entity,)
MINDGEEK S.A.R.L., a foreign)
entity; MINDGEEK USA,)
INCORPORATED, a Delaware)
corporation;)
MINDGEEK CONTENT RT)
LIMITED, a)
Foreign entity; 9219-1568 QUEBEC)
INC. d/b/a MINDGEEK, a foreign)
entity; MG)
BILLING LTD, a foreign entity,

Defendants.

CIVIL ACTION NO: 7:21-cv-
00220-LSC

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT

INTRODUCTION

1. Plaintiffs and the proposed class are victims and survivors of childhood sex trafficking who had videos and images of their childhood sex trafficking sold, managed, and/or distributed on websites owned, operated, managed and/or

controlled by Defendants. Defendants have victimized and exploited this child sex abuse material for profit.

2. Defendants created, organized, and disseminated images and videos that depict child sexual abuse, often referred to as child pornography, on their websites. These images and videos are crime scenes Defendants monetized.

3. Plaintiffs bring this action against Defendants, who financially benefited from, or otherwise participated in, a sex trafficking venture in which Plaintiffs were victims. Plaintiffs were under eighteen years of age when they were depicted in commercial sex acts and child pornography, which was then made available for viewing on websites owned or operated by the Defendants, in violation of the Trafficking Victims Protection Reauthorization Act (“TVPRA”), 18 U.S.C. § 1591 and 1595, and other laws.

JURISDICTION AND VENUE

4. The Court has subject-matter jurisdiction over this matter under 28 U.S.C. § 1331 because this action arises under the laws of the United States.

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

6. The Court may properly exercise personal jurisdiction over all Defendants. Each of the Defendants maintains minimum contacts with the United States and the State of Alabama, such that maintenance of this lawsuit does not offend traditional notions of fair play and substantial justice. Defendants have purposefully availed themselves of this Court's jurisdiction. Each Defendant directs substantial business activity into this jurisdiction. There is a substantial nexus between Jane Doe #1 and Jane Doe #2's claims and Defendants' activities in the state of Alabama.

7. As set forth in more detail below, each of the Defendants acts as the alter ego of the others.

8. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claims asserted in this action occurred in the judicial district where this action is brought, and the defendants engage in substantial business activities in this judicial district.

PARTIES

9. Plaintiff Jane Doe #1 is an individual who is now the age of majority under Alabama law and presently resides in Alabama. Jane Doe #1 is a victim of child sex trafficking and child pornography, pursuant to the TVPRA.

10. Due to the sensitive, private, and potentially retaliatory nature of Jane Doe #1's allegations, she requests that this Court permit her to proceed under a

pseudonym¹. Courts recognize an exception to the general rule that pleadings name all parties when the issues involved are of a sensitive and highly personal nature. For good cause, as exists here, the Court may permit Jane Doe #1 to proceed in pseudonym to protect a party from annoyance, embarrassment, oppression, or undue burden or expense. Here, granting pseudonym status is warranted because this litigation will involve the disclosure of stigmatizing sexual information, including rape. Plaintiff fears the stigma from her family, friends, employer, and community if her true identity is revealed in the public record.

11. Defendants will not be prejudiced by Jane Doe #1's use of a pseudonym. She will agree to reveal her identity to the Defendants for the limited purpose of investigating her claims once the parties are governed by a protective order. Jane Doe #1 simply seeks redaction of her personal identifying information from the public docket and assurances that Defendants will not use or publish her identity in a manner that will compromise her personal life or future employment prospects.

12. Jane Doe #2 is an individual who is now the age of majority under Alabama law and presently resides in California. Jane Doe #2 is a victim of sex trafficking and child pornography, pursuant to the TVPRA.

¹ On March 3, 2021, this Honorable Court granted the Plaintiffs' Motion for Leave to Proceed Pseudonymously without prejudice to the right of Defendants to respond if they feel necessary to do so after being served (ECF Doc.7).

13. Due to the sensitive, private, and potentially retaliatory nature of Jane Doe #2's allegations, she requests that this Court permit her to proceed under pseudonym. Courts recognize an exception to the general rule that pleadings name all parties when the issues involved are of a sensitive and highly personal nature. For good cause, as exists here, the Court may permit anonymous pleading to protect a party from annoyance, embarrassment, oppression, or undue burden or expense. Here, granting pseudonym status is warranted because this litigation will involve the disclosure of stigmatizing sexual information, including rape. Jane Doe #2 fears the stigma from her family, friends, employer, and community if her true identity is revealed in the public record.

14. Defendants will not be prejudiced by Jane Doe #2's use of a pseudonym. She will agree to reveal her identity to Defendants for the limited purpose of investigating her claims once the parties are governed by a protective order. Jane Doe #2 simply seeks redaction of her personal identifying information from the public docket and assurances that Defendants will not use or publish her identity in a manner that will compromise her personal life or future employment prospects.

15. Defendant MG FREESITES, LTD, d/b/a "PORNHUB" is a foreign entity incorporated in the Republic of Cyprus conducting business throughout the United States, including within the Northern District of Alabama. Upon information

and belief, MG FREESITES, LTD is a wholly owned subsidiary of MINDGEEK S.A.R.L., either directly or through intermediary companies that are also under the control of MINDGEEK S.A.R.L. Upon information and belief, MG FREESITES, LTD owns, operates, and/or manages one or several of the websites and is predominantly under the control of and operated by directors, officers and employees working in MindGeek's offices in the United States and Canada, with little business operations being conducted within the Republic of Cyprus, where MG FREESITES, LTD is incorporated.

16. Defendant MG FREESITES II LTD, is a foreign entity incorporated under the laws of the Republic of Cyprus conducting business throughout the United States, including within the Northern District of Alabama. Upon information and belief, MG FREESITES II LTD owns, operates, and/or manages one or several of the websites.

17. Defendant MINDGEEK S.A.R.L. is a foreign entity incorporated in Luxembourg conducting business throughout the United States, including within the Northern District of Alabama. Formerly known as ManWin, MINDGEEK S.A.R.L. is the consolidation of two large pornography companies, Mansef and InterTube. Over the past decade, MINDGEEK S.A.R.L. acquired competing businesses and now owns and operates over one hundred (100) pornographic websites, production companies, and brands. Upon information and belief, MINDGEEK S.A.R.L. is

thought to own and/or control the majority of the pornography on the Internet, much of which it distributes for free to any person, regardless of age, who has a web connection. MINDGEEK S.A.R.L.'s principal place of business is Montreal, Canada, with satellite offices in San Diego, Los Angeles, San Francisco, London, Bucharest (Romania), and Nicosia (Cyprus).

18. Defendant MINDGEEK USA, INCORPORATED, is a corporation incorporated in the State of Delaware conducting business throughout the United States, including within the Northern District of Alabama. Upon information and belief, MINDGEEK USA, INCORPORATED is a wholly owned subsidiary of MINDGEEK S.A.R.L., either directly or through intermediary companies also under the control of MINDGEEK S.A.R.L.

19. Defendant MG CY HOLDINGS LTD is a foreign entity incorporated under the laws of the Republic of Cyprus conducting business throughout the United States, including within the Northern District of Alabama.

20. Defendant MINDGEEK CONTENT RT LIMITED is a foreign entity incorporated under the laws of Ireland conducting business throughout the United States, including within the Northern District of Alabama. Upon information and belief, MINDGEEK CONTENT RT LIMITED owns, operates, and/or manages one or several of the websites.

21. Defendant 9219-1568 QUEBEC INC., d/b/a “MindGeek”, is a Montreal-based company conducting business throughout the United States, including within the Northern District of Alabama. Upon information and belief, 9219-1568 QUEBEC INC. employs between 750 and 999 employees with a portfolio of pornographic websites.

22. Defendant MG BILLING LTD is a foreign entity incorporated under the laws of Ireland conducting business throughout the United States, including within the Northern District of Alabama. Upon information and belief, MG BILLING LTD owns, operates, and/or manages the subscription services for one or several of the pornographic websites.

23. Herein, “Defendants” or “MindGeek” refers to MindGeek S.A.R.L., MG Freesites, Ltd., MG Freesites II, Ltd., MG Content RT Limited, 9219-1568 Quebec, Inc., MindGeek USA Incorporated; MG CY Holdings LTD, MG Billing LTD, and all of their parents, subsidiaries and affiliates.

24. Over the years, MindGeek’s corporate grouping has included over one hundred subsidiaries and related companies around the world, including the United States. The complete details of this complex network of related companies is unknown to the Plaintiffs and Class at this time.² MindGeek S.A.R.L. exercises

² See Open Corporates, *MindGeek Corporate Grouping*, https://opencorporates.com/corporate_groupings/MindGeek (last visited Mar. 20, 2021).

complete control and domination of the finances, policy, and business practices of the MindGeek entities. MindGeek entities are or were the alter egos of each other operating as a single business enterprise, commingling its funds and other assets to shelter and avoid liabilities and in an effort to hide the identity of all its owners and investors. All Defendants are jointly and severally liable in this action as alter egos of the other.

25. In particular, Plaintiffs are unaware of any “MindGeek”-related entity that does not act at the direction of the MindGeek enterprise operated by the Defendants.

26. MindGeek and its subsidiaries have utilized the United States judicial system to enforce their intellectual property, contractual, and other rights relating to the business they systematically and routinely conduct within the United States, including their pornographic websites.

27. The Defendants, together and individually, facilitated and financially benefited, from sex trafficking ventures between Defendants and others, including Jane Doe #1 and Jane Doe #2’s sex trafficking, in violation of the TVPRA.

28. Sex traffickers and the Defendants worked together to earn a profit from commercial sex acts and child pornography involving the Plaintiffs and Class members.

BACKGROUND

29. In 2000, Congress passed the Trafficking Victims Protection Act (“TVPA”). The TVPA was the first comprehensive law in the United States to penalize the full range of human trafficking offenses,³ including sex trafficking of children under the age of 18 or sex trafficking by force, fraud, or coercion.⁴

30. Congress reauthorized the TVPA in 2003.⁵ In doing so, the Trafficking Victims Protection Reauthorization Act (“TVPRA”) created a civil cause of action, codified at 18 U.S.C. § 1595.⁶

31. The TVPRA permits a party to bring a civil claim against perpetrators and against persons or entities who, although not the direct perpetrator, knowingly benefits from participating in what they should know was a sex trafficking venture.⁷

32. During a speech in New York City in September 2012, President Obama stated that human trafficking “ought to concern every person, because it is a debasement of our common humanity. It ought to concern every community, because it tears at our social fabric. It ought to concern every business, because it

³ See Victims of Trafficking and Violence Protection Act of 2000. Pub. L. No. 106-386, § 102(a), 114 Stat. 1464, 1467 (2000), available at <https://www.congress.gov/106/plaws/publ386/PLAW-106publ386.pdf>.

⁴ See 18 U.S.C. § 1591(a), available at <https://www.law.cornell.edu/uscode/text/18/1591>.

⁵ See Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, § 4(a)(4)(A), 117 Stat. 2875, 2878 (2003), available at <https://www.gpo.gov/fdsys/pkg/STATUTE-117/pdf/STATUTE-117-Pg2875.pdf>.

⁶ See 18 U.S.C. § 1595(a), available at <https://www.law.cornell.edu/uscode/text/18/1595>.

⁷ *Id.*

distorts markets. It ought to concern every nation, because it endangers public health and fuels violence and organized crime.”⁸

33. Statistics released in 2014 by the International Labor Organization (“ILO”) showed that approximately 4.5 million people were victims of forced sexual exploitation globally and that the violation of their human rights yielded an estimated annual profit of \$99 billion dollars for sex traffickers worldwide.⁹

34. The United States Department of Justice estimates that pornographers have recorded the abuse of more than one million children in the United States.¹⁰ The Internet has radically changed how child pornography is reproduced and disseminated according to the United States Department of Justice. “The expansion of the Internet has led to an explosion in the market for child pornography, making it easier to create, access, and distribute these images of abuse. While ‘child pornography’ is the term commonly used by lawmakers, prosecutors, investigators and the public to describe this form of sexual exploitation of children, that term largely fails to describe the true horror that is faced by hundreds of thousands of children every year. The child victims are first sexually assaulted in order to produce

⁸ President Barack Obama, *Remarks to the Clinton Global Initiative* (Sept. 25, 2012), (transcript available at <https://obamawhitehouse.archives.gov/the-press-office/2012/09/25/remarks-president-clinton-global-initiative>).

⁹ International Labour Office, *Profits and Poverty: The Economics of Forced Labour* at 13 (2014), https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_243391.pdf.

¹⁰ Roger J.R. Levesque, *Sexual Abuse of Children: A Human Rights Perspective*, at 66 (Ind. Univ. Press 1999).

the vile, and often violent, images. They are then victimized over and over again each time images of their sexual assault are traded over the Internet in massive numbers by like-minded people across the globe.”¹¹

35. In the United States, the National Center for Missing and Exploited Children (“NCMEC”) serves as the national clearinghouse for child pornography/child sexual abuse material (“CSAM”) reports. NCMEC was created by an Act of Congress and is federally funded. NCMEC operates the “CyberTipline,” which gathers reports of child sexual exploitation (including child pornography, online enticement, and contact offenses). The CyberTipline provides an online mechanism for members of the public and electronic service providers to report incidents of suspected child sex trafficking or child sexual abuse images. In 2019, the CyberTipline processed 16.9 million reports and approximately 21 million reports in 2020. NCMEC also operates the U.S. Child Victim Identification Program and, as of 2019, it had reviewed more than 312 million images and videos of child sexual abuse material.¹²

36. NCMEC maintains a hash-sharing system and database that allows companies like MindGeek, if they wanted, to check all videos / images against the

¹¹ U.S. Department of Justice, *The National Strategy for Child Exploitation and Human Interaction: A Report to Congress*, at 3 (Aug. 2010), <https://www.justice.gov/psc/docs/natstrategyreport.pdf>

¹² National Center for Missing & Exploited Children, *Child Sexual Abuse Material (CSAM)*, <https://www.missingkids.org/theissues/csam> (last visited Feb. 8, 2021).

database to ensure they are not hosting CSAM and that no known CSAM images/videos could be reuploaded in the future.

37. In March 2020, after years of being confronted with allegations that CSAM was being created, harbored, facilitated and generating profit, MindGeek decided to turn over 4,171 videos to NCMEC.

38. In February 2021, MindGeek finally agreed to use the NCMEC hash-sharing database, but as of the end of February 2021, MindGeek had not yet accessed the system to check if any of the videos in their library, currently live or of those thousands of unverified videos they removed yet still house, matched those in the database qualifying as known CSAM, requiring the video be removed and turned over to NCMEC to prevent future uploading and to abide by U.S. child pornography laws.

39. On January 31, 2020, President Trump entered Executive Order #13903, entitled “Combating Human Trafficking and Online Child Exploitation in the United States.”¹³ The Order stated: “Human trafficking is a form of modern slavery. Throughout the United States and around the world, human trafficking tears apart communities, fuels criminal activity, and threatens the national security of the United States. It is estimated that millions of individuals are trafficked around the

¹³ Exec. Order No. 13903, 85 Fed. Reg. 6721, 6721-6723 (Jan. 31, 2020), <https://www.federalregister.gov/documents/2020/02/05/2020-02438/combating-human-trafficking-and-online-child-exploitation-in-the-united-states>.

world each year—including into and within the United States.” It further stated that “Twenty-first century technology and the proliferation of the internet and mobile devices have helped facilitate the crime of child sex trafficking and other forms of child exploitation. Consequently, the number of reports to the National Center for Missing and Exploited Children of online photos and videos of children being sexually abused is at record levels.”

FACTUAL ALLEGATIONS

A. COMMERCIAL SEX ACTS INVOLVING MINORS IS SEX TRAFFICKING

40. Under 18 U.S.C. § 1591(e)(3), the term “commercial sex act” means any sex act, on account of which anything of value is given to or received by any person. 18 U.S.C. § 1591(e)(3).

41. Section 1591(a)(1) and (a)(2) make it a crime to benefit, financially or by receiving anything of value, from participation in a venture which knowingly recruits, entices, harbors, transports, provides, obtains, maintains, patronizes, or solicits by any means a person for commercial sex, where the person is under 18, or induced by force, fraud, or coercion. 18 U.S.C. § 1591(a)(1).

42. The TVPRA, as amended in 2008, improved a victim’s ability to hold traffickers accountable by eliminating the requirement to prove a particular defendant knew a sex trafficking victim was a minor, in cases where the defendant had a reasonable opportunity to observe the minor. The TVPRA also significantly

expanded the civil cause of action to include those who financially benefit from what they know or should know is sex trafficking.

43. In 2018, Congress passed a bill known as Fight Online Sex Trafficking Act (“FOSTA”) and Stop Enabling Sex Traffickers Act (“SESTA”) (collectively, “FOSTA/SESTA”) to amend 47 U.S.C. § 230, the Communications Decency Act, to clarify that it was never intended to provide immunity for websites facilitating illegal commercial sex acts with children or adult victims of human trafficking on websites.¹⁴ The FOSTA/SESTA amendment to Section 230 is retroactive, applying “regardless of whether the conduct alleged occurred, or is alleged to have occurred, before, on, or after ... enactment.”¹⁵

44. Plaintiffs have sufficiently pled that they were victims of sex trafficking within the meaning of 18 U.S.C. § 1591 and are therefore entitled to bring a civil action under 18 U.S.C. § 1595.

B. MINDGEEK FACILITATES SEX TRAFFICKING OF MINORS

MindGeek’s corporate structure and reach

45. The MindGeek Defendants include a number of intertwined and related entities; MindGeek has a complex corporate structure through which it has developed, designed, produced, possessed, advertised, and distributed pornographic

¹⁴ Pub. L. 115–164, §2, Apr. 11, 2018, 132 Stat. 1253.

¹⁵ See 132 Stat. 1253, §4(b). See also *Woodhull Freedom Found v. United States*, 948 F.3d 363,368 (D.C. Cir. 2020).

content throughout the world and the United States, including specific business contacts with Alabama.

46. The MindGeek Defendants own and control one of the largest and most-visited pornographic websites in the world, www.Pornhub.com (“Pornhub”), as well as www.YouPorn.com, www.RedTube.com, www.XTube.com, and www.Tube8.com.¹⁶

47. In 2019, Pornhub averaged 115 million visits a day, and acquired 1.36 million hours (or 169 years’ worth) of new content.¹⁷ 6.83 million new videos were uploaded to Pornhub in 2019.¹⁸ “To put this in perspective – if you strung all of 2019’s new video content together and started watching them in 1850, you’d still be watching them today!”¹⁹ 39 billion searches were performed over 42 billion visits.²⁰

48. The United States remained by far the country with the highest daily traffic on Pornhub, with Alabama users ranking second in the nation in time spent per visit to Pornhub.

49. According to the Canadian Centre for Child Protection, the majority of Pornhub’s content is hosted on U.S.-based servers.²¹

¹⁶ *MindGeek*, www.mindgeek.com (last visited Mar. 20, 2021),

¹⁷ See Pornhub Insights, *The 2019 Year in Review*, <https://www.Pornhub.com/insights/2019-year-in-review> (last visited Mar. 20, 2021).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Canadian Centre for Child Protection, *An analysis of CSAM and harmful-abusive content linked to certain electronic service providers*, Project Arachnid: Online Availability of Child

MindGeek's role in content creation and development

50. Until December 2020, most of the videos and images on Pornhub, including those for Jane Doe #1 and #2, were uploaded with no attempt to verify the identification, age, or consent of the persons uploading it or featured in it.

51. In December 2020, MindGeek suspended “nine to ten million unverified videos” from Pornhub.²²

52. Although Pornhub is a tube site, MindGeek does not rely exclusively on user-generated videos and images, but includes videos and images from a number of Content Partners, including Brazzers, Fake Taxi, and Kink.com,²³ and until recently, GirlsDoPorn, whose leaders now face sex trafficking charges for coercing women into producing pornography and earning money from doing it.²⁴

53. MindGeek owns some of the entities it describes as Content Partners, including Brazzers, Babes.com, Digital Playground, Reality Kings, and Twistys.²⁵

Sexual Abuse Material, at 32 (June 8, 2021),
https://protectchildren.ca/pdfs/C3P_ProjectArachnidReport_en.pdf.

²² See, Jordan Valinsky, *Pornhub removes a majority of its videos after investigation reveals child abuse*, CNN Business (Dec. 15, 2020, 12:24 PM),
<https://www.cnn.com/2020/12/15/business/Pornhub-videos-removed/index.html>.

²³ See Pornhub, *Pornhub Network Content Partner Program*,
<https://www.Pornhub.com/partners/cpp> (last visited Mar. 20, 2021).

²⁴ See Samantha Cole & Emanuel Maigberg, *Pornhub finally removes girls o porn*, VICE (Oct., 19, 2019, 5:12 PM) https://www.vice.com/en_us/article/43kb5q/Pornhub-finally-removes-girls-do-porn.

²⁵ Pornhub, *supra* note 21.

54. Pornhub admits that they create at least some videos and images on their website.²⁶ At the bottom of most pages, Pornhub includes this statement: “The Pornhub team is always updating and adding more porn videos every day.”²⁷

55. In 2016, MindGeek boasted that it was producing “over 400 exclusive scenes every month.”²⁸

56. Where MindGeek is not creating videos and images for content, it is developing, designing, and controlling videos, images, text, tags, advertising, and other aspects of its site in some fashion. MindGeek’s business model is predicated on maximizing views and traffic to its site. It accomplishes this by tightly controlling through editing, creating, and modifying titles, tags, keywords, storylines, themes, and scenes of every single video on the site despite its source.

57. As further described below, MindGeek actively controls how and what videos are posted; the discussions/comments surrounding particular videos and

²⁶ See, e.g., *Malibu Media, LLC v. Doe*, 381 F. Supp. 3d 343, 355 (M.D. Pa. 2018) (“Moreover, the terms of Pornhub’s license refer to ‘our Works’—quite plainly referencing Pornhub’s *original* works—and not to ‘Content Posted by Users,’ which the terms of use address separately. (defining ‘our Works’ as ‘content we own, authored, created, purchased, or licensed’ and ‘Content’ as user-submitted ‘content, data, information, videos, images, recordings, materials, code or content of any kind’).”).

²⁷ See generally Pornhub, <https://www.Pornhub.com> (last visited Mar. 20, 2021).

²⁸ Orlando Crowcroft, *Pornhub: How ‘the YouTube of sex’ changed the porn world - and how it may still destroy it*, International Business Times (Apr. 25, 2016, 12:18 PM), <https://www.ibtimes.co.uk/Pornhub-how-youtube-sex-changed-porn-world-how-it-may-still-destroy-it-1554844>.

images; processes for viewing, posting, and creating accounts; and processes for encouraging and rewarding income and fees for downloaded and viewed content.

58. Pornhub maintains a 40-page instruction and direction guide, called “The Pornhub Playbook,” advising how to make money from the site.²⁹ Pornhub advises uploaders on what types of videos and images to post, specifically suggests keywords and categories, and will edit non-compliant posts.

59. Pornhub’s instruction and direction guide includes the following:

- “Genitals should not be censored or blurred (If possible)”
- Titles for videos:
 - “*Bad*: Big Tit Teacher Pornstar Hardcore Sex”
 - “*Good*: Busty School Teacher Capri Cavalli Fucks Big Dick Student During Detention”
- “Something else to keep in mind: Try less common categories in addition to popular ones! Categories such as ‘Teen’, ‘Big-Tits’ and ‘MILF’ are popular, so those pages will change almost daily. By choosing relevant but less popular categories such as ‘Outdoor’, ‘POV’ or ‘Euro’, your clips will appear higher in the results and stay there longer.”

²⁹ See generally Pornhub, *The Pornhub Playbook: How to Make Money with Pornhub*, https://www.Pornhub.com/content_partner_guide.pdf.

- “Tags are words used to describe actions (rimming, scissoring), positions (doggystyle, cowgirl), settings (kitchen, library), objects (dildo, handcuffs) and attributes (petite, trimmed).”
- “Actions portrayed in the thumbnail MUST appear in the video. e.g., If the thumbnail depicts a blowjob, the video must contain a blowjob scene.”³⁰

60. Pornhub instructs its partners: “Pornhub users have certain expectations. Formatting content in a manner that will appeal to our audience is vital to generating more views and higher ratings.” Pornhub then goes on to give scene by scene instructions, “Use compelling content (dialogue/story/reality) to start the video. If there is no storyline, then tease the viewer with a good action shot. The middle of the video should be composed of multiple hardcore action scenes and various sexual positions. For the clip’s ending, make sure you go out with a bang! Videos that achieve the highest user ratings always end with an orgasm and/or cumshot.”³¹

61. The content guide also offers Content Partners further assistance if they want it: “Our knowledgeable and friendly team will walk you through every step of the way. Contact us and start promoting your brand today!”³²

³⁰ *Id.* at 5, 12-14.

³¹ *Id.*

³² *Id.* at 34.

62. Pornhub had a banned terms list, which stated: “Due to payment processor regulations, the rules are a bit stricter. Here’s a list of words you can’t use in your video titles. Also, if your videos contain any content that matches these descriptions, they’ll be taken down as well.”³³

63. The banned terms list is no longer available on Pornhub’s website for general users but remained on the Modelhub FAQ page until June 2020.³⁴ However, many of these terms still appear in the titles or tags of videos but in loosely concealed forms, such as a letter replaced with an asterisk, appearing in a different language, or represented by a term common to predators and exploiters looking for such videos and images. Often these searches within Pornhub also create related search terms so that the user can locate similar content.

64. Either Pornhub content developers are replacing terms indicating illegal content with asterisks, rather than taking the content down, or they are allowing users to do so as they claim to review all posted content.³⁵

65. MindGeek creates and suggests tags for users. MindGeek requires users to choose a minimum number of tags from provided options when a new video is

³³ See Attached Exhibit 1

³⁴ *Id.*

³⁵ See Pornhub, *Answers to Community Questions*, <https://www.Pornhub.com/blog/10012> (last visited Mar. 2020).

uploaded and when users choose certain tags MindGeek suggests related tags to increase traffic to the videos.

66. Keywords and tags are essential for search engine optimization which drives users Googling pornographic content to MindGeek websites. MindGeek’s business model is centered on designing, modifying, developing, and controlling content to maximize search engine optimization. MindGeek’s website describes itself as “A leader in IT, Web Development and SEO.”³⁶ MindGeek boasts, “[w]ith over 100 million daily visitors to some of the world’s largest trafficked websites, we’re uncovering trends and user habits overnight that takes others months to gather.”³⁷ MindGeek has a “Search Engine Marketing” team dedicated to “develop[ing] successful strategies to ensure top-ranking in search engine traffic.”³⁸

67. MindGeek ensures uploaders use the keywords, tags, and titles that increase SEO, and profits, by collecting and actively placing data regarding these in multiple places on their websites, through blogs to uploaders,³⁹ the instructions and requirements for Modelhub members, verified users, and Content Partners, as well as the mandate to MindGeek formatters, those in charge of reviewing and editing content, to add tags to videos and change titles described in more detail supra.

³⁶ Mindgeek, *About*, <https://www.mindgeek.com/about/> (last visited Mar. 20, 2021).

³⁷ *Id.*

³⁸ Mind Geek, *Services at Mind Geek: Search Engine Marketing*, (last visited Mar. 20, 2021), <https://www.mindgeek.com/services/#search-engine-marketing>.

³⁹ Andy, *Marketing for Models*, Modelhub (last visited Mar. 20, 2021), <https://www.Modelhub.com/blog/6601>.

MindGeek even penalizes those who use titles, tags, or categories incorrectly, threatening a “loss of earnings.”⁴⁰ Because MindGeek controls the flow of money to Modelhub members and Content Partners, they can force compliance with content creation according to their specific parameters.

68. MindGeek closely tracks and publishes data surrounding traffic, keywords and search terms. For example, MindGeek publishes a yearly review with a section dedicated to most popular search terms.⁴¹ MindGeek runs a “Pornhub Insights” blog which includes detailed articles about traffic on their site including a “Tech Review” breaking down traffic from different countries around the world and analyzing data broken down by device,⁴² and traffic related to search terms and current events such as the 2020 election.⁴³ MindGeek operates a so-called “wellness” blog titled “PornMD” even compiles the most popular search terms by sexual orientation, categorized alphabetically and by website.⁴⁴ This blog runs a live ticker at the top of the page showing current searches as they are occurring on MindGeek websites in real time. You can also watch the searches live on a separate webpage and filter by country and sexual orientation.⁴⁵

⁴⁰ See attached Exhibit 2.

⁴¹ Pornhub, *supra* note 15.

⁴² *Id.*

⁴³ Pornhub, *2020 Election Week Searches*, Pornhub Review (Nov. 6, 2020), <https://www.Pornhub.com/insights/2020-election-week-searches>.

⁴⁴ PornMD, *Most Popular*, <https://www.pornmd.com/straight/most-popular> (last visited Oct. 2020).

⁴⁵ *Id.*

69. This data regarding search terms demonstrates that the keywords “teen”⁴⁶ and “amateur”⁴⁷ are consistently the top search terms in North America for Pornhub. Both of these keywords are associated with CSAM and victims of non-consensual sexual activity or non-consensually shared content and MindGeek knows this.

70. MindGeek explains the popularity of the term “amateur” through their employee Dr. Laurie Betito: “It seems that people are looking for more realistic depictions of sex. “Real” people vs. actors seems to be the draw. It’s interesting that more and more people are putting themselves out there as amateurs. Sex has become so much less taboo that those who get a kick out of exhibitionism can do so with very little experience or equipment. The message is: anyone can be a porn star!”⁴⁸

71. MindGeek’s focus on certain keywords and tags, and its creation of related search terms, has resulted in MindGeek websites regularly appearing among the top results for virtually any pornography-related Google search, and even for searches unrelated to pornography but which contain certain keywords.⁴⁹ This search engine optimization is what made Pornhub one of the most popular pornography websites in the world.

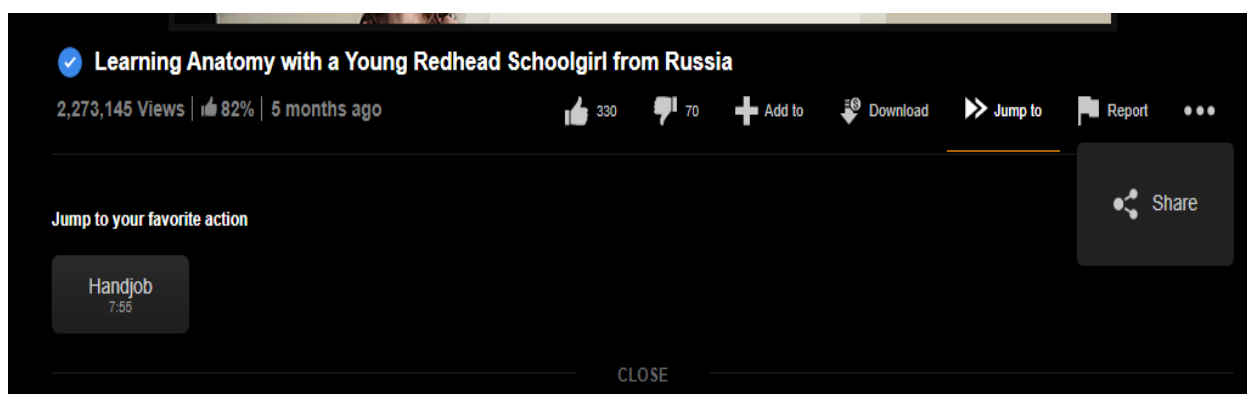
⁴⁶ Pornhub, *supra* note 15.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ (Attached as Exhibit 3).

72. MindGeek creates a graph or timeline and places it underneath videos to demonstrate the level or intensity of activity within the video. This action by MindGeek helps the viewer identify and quickly advance to various levels of sexual activity within the video. Upon information and belief, MindGeek harvests this data to optimize its ad placement and to otherwise monetize on the viewer's viewing habits and addictions.



73. Many videos available on Pornhub also contain buttons created by MindGeek and added to sections within the timeline or graph. These buttons assist viewers in skipping ahead to various parts of the video that pique their interests. For example, buttons created by MindGeek would include “doggy style”, “hand job”, and others.⁵⁰ Upon information and belief, these efforts by MindGeek are yet another way to optimize profit sharing, ad placement, and otherwise capitalize on the data learned by capturing the viewer's preferences.

74. MindGeek creates thumbnails for the videos on its site and stores them on a separate server. This includes thumbnails created from CSAM videos. Thumbnails are a key component to attracting viewers to a video and MindGeek knows this as it advises its content partners, “After uploading a new video, a notification will appear in your profile when thumbnails are ready to be selected. A well-chosen thumbnail will greatly impact the number of views by making videos more appealing for users to click on.”

75. MindGeek generates these thumbnails from uploaded videos and allows the uploader to choose from within the MindGeek created set.⁵¹ In this way, MindGeek requires thumbnails for every video. MindGeek only allows their Content Partners or videos for sale or with a download price to upload custom thumbnails, and even these are strictly controlled by MindGeek, and must comply with the following requirements:

Any text, Logos or superimposed images cannot be larger than 1/3 of the thumbnail. Actions portrayed in the thumbnail MUST appear in the video. e.g. If the thumbnail depicts a blowjob, the video must contain a blowjob scene. Fake elements like play buttons are not permitted on thumbs. Specialty Thumbs that are permitted: Promo Shots; An image that doesn't necessarily happen in the video, but was taken to promote the video. Think, girl's surprised face at huge penis or Large guy standing next to tiny girl to demonstrate contrast. Compositions; a collage of multiple parts of the video. Same rules from above will apply.⁵²

⁵¹ <https://help.pornhub.com/hc/en-us/articles/115007986967-Video-Thumbnails>

⁵² Pornhub, *supra* note 27.

76. MindGeek offers several profit sharing programs with uploaders including, but not limited to, the Modelhub program, and the Content Partner Program.

77. MindGeek maintains continuous business relationships with members of both of these programs in the form of granting them an elevated status on the site, promotion of their content, greater control and development of their content, support services, resources to assist their viewership and profit sharing. MindGeek splits advertising revenue and takes a direct cut from paid content and tips for Modelhub members and splits advertising revenue with Content Partners.

78. MindGeek's Content Partners included GirlsDoPorn, a channel that had more than 600 million views, where women were told they were being considered for modeling jobs and flown to San Diego.⁵³ The perpetrators gave the women drugs and alcohol, rushed them to sign the contracts, and in some cases threatened them with legal action if they backed out, or prevented them from leaving until they did the scenes.

79. One male performer from GirlsDoPorn was convicted and sentenced to 20 years in prison for sex trafficking and conspiracy to commit sex trafficking in

⁵³ Pauline Repard, *22 women win \$13 million in suit against GirlsDoPorn videos*, Los Angeles Times (Jan. 2, 2020), <https://www.latimes.com/california/story/2020-01-02/lawsuit-girlsdoporn-videos>.

June 2021,⁵⁴ a cameraman pled guilty to conspiracy to commit sex trafficking in January 2021,⁵⁵ and an administrative assistant, who provided travel arrangements and transportation for the victims, pled guilty to conspiracy to commit sex trafficking in April 2021.⁵⁶

80. MindGeek waited more than two years after the civil lawsuit was filed⁵⁷ – until GirlsDoPorn owners were indicted – to remove the sex trafficking channel,⁵⁸ and people could still access the videos as late as December 2020.⁵⁹ In the meantime, MindGeek continued to profit from the sex trafficking videos’ views or any increased traffic to and within its website linked to these videos.

81. Another long time Content Partner of MindGeek was “Czech Casting,” which has since been shut down as nine people associated with the channel were

⁵⁴ United States Attorney’s Office S.D. Cal., *So Twenty-Year Sentence in GirlsDoPorn Sex Trafficking Conspiracy*, United States Department of Justice (June 14, 2021), <https://www.justice.gov/usao-sdca/pr/twenty-year-sentence-girlsdoporn-sex-trafficking-conspiracy>.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Pornhub still had GirlsDoPorn as a Content Partner in August 2019. Samantha Cole, *supra* note 21. The first complaint was filed in March 2017. See Second Am. Compl. *Jane Doe Nos. 1-22, v. GirlsDoPorn.Com*, No. 37-2016-00019027 (Cal Super. Ct. 2020), <https://sanfordheisler.com/wp-content/uploads/2019/08/Complaint-Does-1-14.pdf>. It alleged conduct that violated federal sex trafficking statutes, though it did not contain a direct claim for sex trafficking beneficiary claim.

⁵⁸ See Sean Hollister, *Pornhub removes GirlsDoPorn, finally drawing a line at sex trafficking charges*, The Verge (Oct. 14, 2019), <https://www.theverge.com/2019/10/14/20914593/Pornhub-girls-do-porn-mindgeek-remove-channel-videos>. GirlsDoPorn was indicted in October 2019.

⁵⁹ Complaint, *supra* note 37, ¶ 73.

arrested for human trafficking, sexual coercion and rape in July 2020.⁶⁰ This was a highly successful channel on Pornhub with over 79 million views and boasted “[t]he largest casting on Earth!” The owners of this channel had several channels on Pornhub collectively garnering almost 1 billion views.⁶¹

82. Modelhub is a MindGeek company that offers the “amateur” pornographer various methods to upload content and create view-based revenue on Pornhub, Pornhub premium, and Modelhub.

83. Pornhub added over 98,000 new members in 2019 to its Modelhub program bringing the total to around 130,000.⁶² In addition to ad revenue, MindGeek controls and shares in all of Modelhub Models’ earnings, with models receiving up to 65% of on-demand videos, 80% of revenues from fan-only videos,⁶³ and 80% of any tips.⁶⁴ Pornhub takes a portion of the money, including tips, in addition to a 15% processing fee.⁶⁵

84. Pornhub sets the payment cap for “models” and writes: “In the event you violate any part of these Terms of Services, you violate any third party right,

⁶⁰See Prague Morning, *Czech Casting: Women Lured By Modeling Gigs, Manipulated Into Shooting Porn* (July 18, 2020), <https://praguemorning.cz/czech-casting-women-lured-by-modeling-gigs-manipulated-into-porn/>.

⁶¹ See Exhibit 4.

⁶² Pornhub, *supra* note 15.

⁶³ See Modelhub, *Terms and Conditions*, <https://www.Modelhub.com/information/terms> (visited on Mar. 20, 2021).

⁶⁴ See Pornhub, *Earnings and Payments*, <https://help.Pornhub.com/hc/en-us/articles/360046090414-Earnings-and-Payments> (visited on Mar. 20, 2021).

⁶⁵ *Id.*

including without limitation any copyright, property, or privacy right, or where a third-party claims that all or any part of your Content caused it damage, we may, in our sole discretion, withhold indefinitely payments to you.”⁶⁶

85. Essentially, MindGeek moderators eyeball the performers in the video to see if they look young. If the performer is a child under the age of 12, it may be more likely that a moderator would flag that video or image. However, if the performer is 15, 16, 17, the moderator may be less likely, and less inclined, to flag that video or image.

86. MindGeek asks amateurs to fill out an online form stating what type of requests the amateur is willing to take. Further, competitions for cash and prizes are promoting riskier behaviors that are encouraged by Pornhub based on what users are searching for.⁶⁷

87. Consistent with MindGeek’s material contributions on their site, they provided a 15-page “How to Succeed” instruction and directive for Modelhub members, as well as detailed “Help” and “FAQ” pages on their website to ensure even these “amateur” uploaders include the scenes, activity, keywords, tags, and titles that MindGeek knows successfully generates traffic to videos.

⁶⁶ Modelhub, *supra* note 66.

⁶⁷ See Chase Renier, *How to Make Money On Pornhub (Simple Guide to Making Your First \$100)*, Black and White Ninja (May 6, 2019), <https://www.blackandwhite.ninja/blog/how-to-make-money-on-Pornhub>.

88. MindGeek ensures that these “guidelines” are followed by controlling the earnings with of Modelhub members.

89. For example, MindGeek threatens removal of earnings if a model uses a tag, category, or title for a video that does not contain the action represented in the video. (MindGeek does not threaten to remove the video itself for non-compliance, suggesting that they will profit from it, without allowing the model to do so).

90. Additionally, MindGeek explains, “We pay out a high percentage (80%+) of the ad revenue that your videos earn. Your earnings are based on the views of your video times the ad rate. The ad rate is calculated based on the performance of the ads around your video (clicks, user country, sales).”⁶⁸ MindGeek knows from years of data mining what increases traffic, and they tell Modelhub members in detail the content, titles, keywords, and tags their videos need to contain to drive this traffic. The message and operation is clear, follow these rules and you get paid.

91. For custom videos, which can be requested by “fans”, MindGeek generates the form with the available options for the uploader to choose from to craft a request from for their “fans”. For example, the uploader can choose from a variety of MindGeek generated sex acts in the “extras” section of the MindGeek created

⁶⁸ See Pornhub, *Model Payment Program: How to Succeed*, <https://bs.phncdn.com/misc/images/How%20to%20Succeed.pdf>.

form and then this becomes the request form Modelhub “fans” use to request custom videos. Through these forms MindGeek controls video length, resolution, content and delivery time for “custom” videos requested by fans and takes 35% of the profits.⁶⁹

92. MindGeek’s Modelhub guide also did not require uploaders or users to verify the age or consent of co-performers in the video at the time of upload, only “strongly recommend[ing]” that a co-performer agreement be kept by the uploader if there are others in the video, in order to “take all necessary actions to protect both yourself and your content.”⁷⁰

93. MindGeek further instructs that “if you forget to identify yourself in the upload process” (much less any co-performer, rape victim, or non-consenting participant) just email Modelhub.⁷¹

94. MindGeek knew or should have known that it was profit sharing with sex traffickers on its site as evidenced by some examples of content that MindGeek has verified, distributed, and monetized through Modelhub:

- Verified Model “Suga Daddy Zo” films his commercial sex encounters with real prostituted persons. The description of his channel reads, “On this channel I fuck all kinds of prostitutes. Street Walkers, Online Hos,

⁶⁹ See Pornhub, *Custom Videos*, <https://help.Pornhub.com/hc/en-us/articles/360013666833-Custom-Videos> (visited on Mar. 20, 2021).

⁷⁰ Pornhub, *supra* at 60.

⁷¹ See, Pornhub, *Models*, www.Pornhub.com/partners/models (last visited Feb. 7, 2021).

Everyday working Hos, they all get fucked here.”⁷² Many of his videos are shot in his car with titles such as, “On the Hunt for Hos (The Lost Tapes of Ep. 11) Run-a-way teen,”⁷³ “On the Hunt for Hos Ep. 16 (Kelvyn Park High School Teen) Barely Legal,”⁷⁴ His videos have 9.7 million views, and he has 21 thousand subscribers. It is clear that this “Verified Model” is not submitting the name, age verification or any other information on the women he is exploiting in these videos and yet MindGeek approves them for distribution, collects the money paid by “fans,” makes direct payments to this perpetrator, and shares in the profits.

- Verified Model, Modelhub member, and sex tourist Randy Johnson advertises his videos as “massage videos of young amateur teens and milfs” where he records illegal message sessions that result in commercial sex acts with titles such as, “Oil Massage for tiny ebony teen then smash her hard,” “Black Teen Massage ends in Reverse Cowgirl & Doggy,” and “Hotel Thai Massage Girl Gets Destroyed by Tourist⁷⁵.” The production type is listed as homemade and the tags

⁷² See Pornhub, *Pornstars*, <https://www.Pornhub.com/model/suga-daddy-zo> (last visited Mar. 2021). See attached Exhibit.5

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ See Pornhub, <https://www.pornhub.com/model/randy-johnson/videos> (Last visited Mar. 2021) Attached as Exhibit 6

include “massage, hotel massage, fuck massage, exploited teens, and exploited teens asia.” Because Randy is a verified model, Pornhub receives a percentage of any money he makes through Modelhub including tips. Again, each video depicts different women from different countries, and it is clear in many of the videos that the women do not know they are being recorded, some of the titles include phrases like “secret filming”. Their information is not being verified by MindGeek yet MindGeek shares the profits from these videos. His videos have 9.8 million views.

- A missing 15-year-old-girl was found by her mother in 58 pornographic videos, many of which were on Pornhub and Modelhub.⁷⁶
- Jane Doe #1 was trafficked by a MindGeek Modelhub member.
- Jane Doe #2 was trafficked by an official MindGeek Content Partner.

MindGeek’s profit model

95. MindGeek’s business model is tied to user clicks and views; the more user engagement, the higher the profits.

96. To draw in new users and maintain market share, MindGeek makes most of its library fully available and free to view, even without creating an account.

⁷⁶ Pritha Paul, *15-year-old girl missing for a year spotted in 58 videos on adult websites, Periscope and Snapchat by mother*, MEAWW (Feb. 27, 2021), <https://meaww.com/missing-teen-adult-video-Pornhub-Modelhub-snapchat-periscope>.

In this way, MindGeek will distribute content -- including child pornography -- to anyone.

97. To maximize content MindGeek allowed anyone to upload videos, even anonymously, with no age or consent verification. All that was needed was an email address to create an account and a video could be uploaded and live within minutes. MindGeek formatters would modify titles and add keywords and tags to ensure videos incurred views but would take no measures to ensure those depicted in the videos had consented or were adults.

98. MindGeek also sells videos on a one-off or subscription basis. Videos may be downloaded for a cost as well. Under this model, MindGeek makes the sale for a fixed price for download, as well as any applicable subscription fees, then divides that revenue with users who have uploaded videos. The commission is gauged by the length of time a video is viewed or number of times a video is downloaded.

99. MindGeek employees create content on Pornhub to increase and encourage visits to particular pornographic videos and images by developing an achievement system for milestones related to particular videos and views. More views and longer views equal more money.

100. Traffic Junky is a web advertising and digital marketing company created, owned, and/or operated by MindGeek for use on Pornhub. One of the revenue models for MindGeek is based on being able to sell ads to advertisers.

101. Through Traffic Junky, MindGeek sells banner and sidebar advertisements, as well as advertisements that appear before and after videos. MindGeek placed these advertisements on videos featuring CSAM.⁷⁷

102. As noted above, MindGeek hires formatters who are instructed to label and tag videos and images for the purpose of viewing and categorizing content to increase search engine optimization and so that advertisers can reach users quickly. If users are frequently searching for a term, MindGeek will capitalize on it and produce or tag materials based on frequent search terms by the users.

103. MindGeek edits advertisements placed on its website and TraffickJunky is the MindGeek department that facilitates “data driven decisions” about advertising content. These ads frequently highlight terms such as “girls,” “boys,” “broken teens” and “twink,” which are terms that are known and encouraged for use by MindGeek and are the same terms that promote the use and creation of child sexual abuse materials. Further, it advises the most popular keywords to use, include “teen” as the second most searched term by millennials.⁷⁸ Traffic Junky

⁷⁷ <https://financialservices.house.gov/uploadedfiles/hhrg-117-ba10-wstate-mickelwaitl-20210325.pdf>.

⁷⁸ See, <https://www.trafficjunky.com/blog/2016/09/16/want-to-target-millennials/>

publicizes how it targets a younger population by reaching them Monday nights, not on the weekend when they are out with friends.

104. MindGeek developed ads and affirmatively chose the characteristics and categories of content to determine what users would be targeted and where the ads would be directed.

105. One of the MindGeek companies that collects subscriptions from premium users of MindGeek's websites (MG Billing Ltd) generated revenue of at least \$1.3 billion between 2012 and 2018 and revenue for 2018 alone totaled at least \$220.9 million – or a weekly average of at least \$4.2 million.⁷⁹

106. With its Modelhub program, subscription revenue, premium content, data collection and advertising, MindGeek profited from images and videos of commercial sex acts, including the sexual abuse and rape of children, and by definition trafficking victims, who were under eighteen years of age. This profit-making activity included the rape of each of the Plaintiffs.

⁷⁹ Gordon Deegan, *Grant Thornton Resigns as Auditor to Firms Owned by Pornhub Operator*, Irish Times (February 9, 2021) <https://www.irishtimes.com/business/economy/grant-thornton-resigns-as-auditor-to-firms-owned-by-pornhub-operator-1.4480517#.YCMd5f48f6s.twitter>.

MindGeek's data mining and optimization

107. MindGeek's billions of monthly views allow it to gather massive amounts of consumer data, and to use that data to grow, become more competitive, and help shape new content.⁸⁰

108. MindGeek uses "data-driven creativity" to produce, suggest, and promote content that is tailor-made for users according to what they have previously enjoyed,⁸¹ including videos involving non-consensual actors, rape, and child pornography.

109. According to press reports, MindGeek uses data mining to highlight new trends, compare viewing habits of users in different cities or regions, and to register what videos users are choosing, including which moments they pause at, which scenes they skip, and which scenes they rewind to and replay.⁸² MindGeek even harvests data on and commercializes the clothes actors wear and the furniture in the videos.

110. MindGeek harnesses the data it compiles and analyzes to write scripts and specify details for the content it creates directly. The level of detail and overall

⁸⁰ Kal Raustiala & Christopher Jon Sprigman, *The Second Digital Disruption: Streaming and the Dawn of Data-Driven Creativity*, 94 N.Y.U. L. Rev. 1555, 1583 (2019), <https://www.nyulawreview.org/wp-content/uploads/2019/12/NYULawReview-94-6-RaustialaSprigman.pdf>.

⁸¹ Sam Harton, *The Porn Industry Leads Streaming Services In User Data Mining (UPDATED)*, My Tech Decisions (January 2, 2019), <https://mytechdecisions.com/compliance/the-porn-industry-leads-streaming-services-in-user-data-mining/>.

⁸² *Id.*

approach to MindGeek's content production illustrates the impact of MindGeek's analysis of user data on MindGeek's content creation process. MindGeek caters to fetishes and incorporates and highlights elements of the videos on its websites that data suggests are essential to success including illegal elements such as rape, child sexual abuse, and other non-consensual activity.

111. MindGeek's leadership has stressed that content choices -- including certain dialogue, sex acts, and particular positions and camera angles -- reflect the data mining of millions of views, which allows MindGeek to determine what variables produce the highest viewership, which is a way for MindGeek to capitalize on sharing profits from ads, downloads, and also to drive users toward purchasing premium subscriptions.

112. In addition, MindGeek generates titles and tags for video and image uploads and reviewers/moderators at MindGeek also edit titles and tags associated with videos and images on its websites. Tags are keywords to be associated with a video and will be referenced when users search the websites' video collection.⁸³ In MindGeek's own words, "Tags help to drive search results."⁸⁴

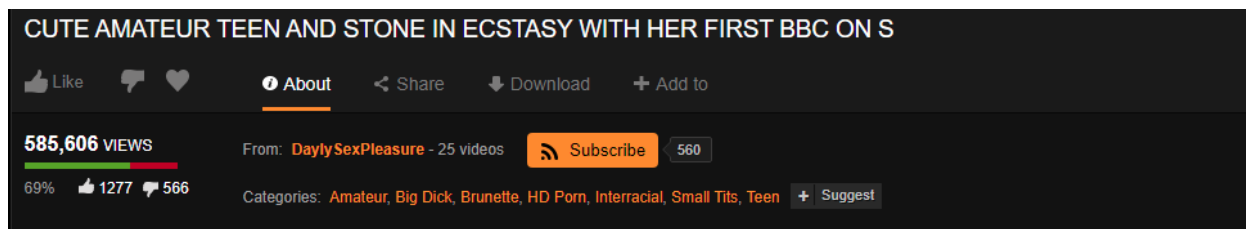
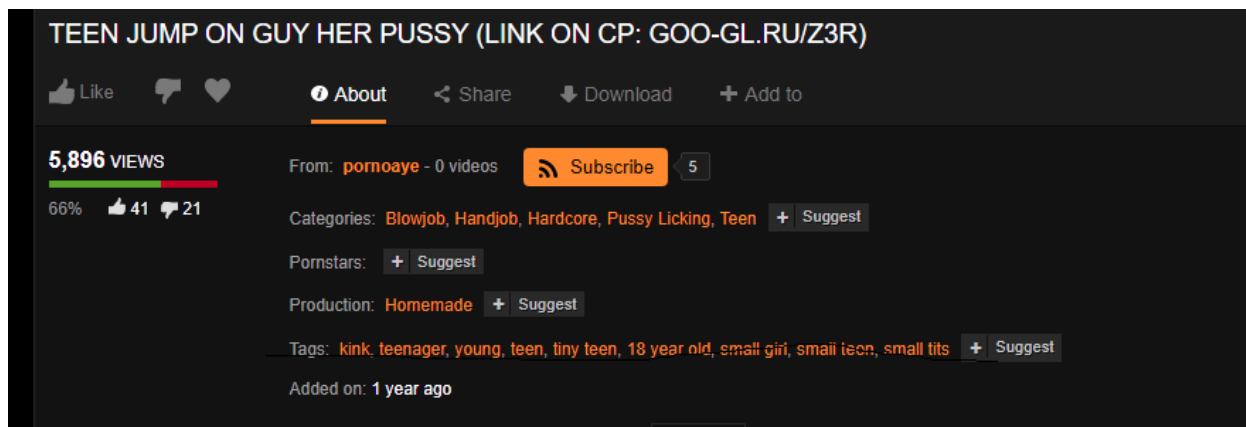
113. MindGeek knows that there is a demand for CSAM on their sites and they cater to this demand. Many of the tags, categories, and search suggestions that

⁸³ Pornhub, *What are Tags*, Help Center, [https://help.Pornhub.com/hc/en-us/articles/360044322674-What-are-tags-\(last visited Mar. 20, 2021\)](https://help.Pornhub.com/hc/en-us/articles/360044322674-What-are-tags-(last%20visited%20Mar.%202021)).

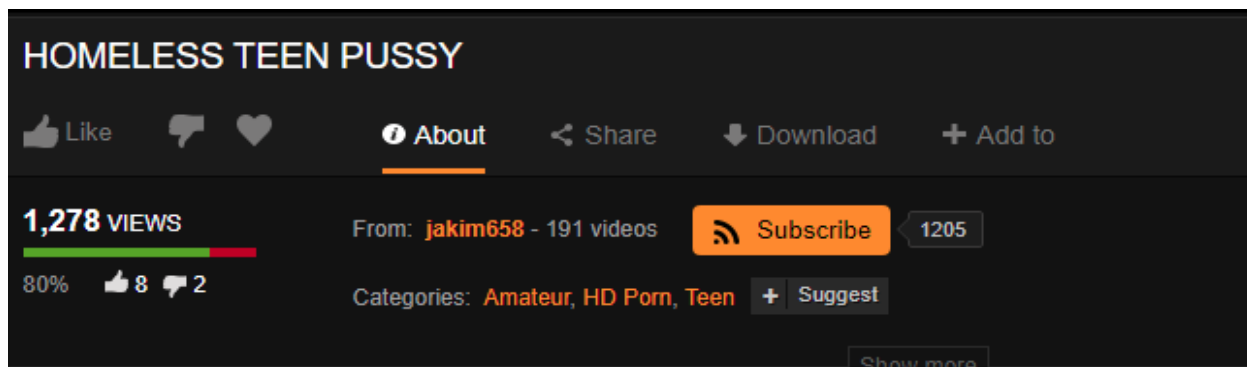
⁸⁴ *Pornhub Playbook*, *supra* note 27, at 14.

have been created or edited by MindGeek facilitate users seeking easy access to child pornography, child sex trafficking, or any other form of child sexual abuse material, including that depicting Plaintiffs.

114. One such tag MindGeek used to classify pornographic content on its websites was “Teen.” The suggested terms include “abused teen,” “crying teen,” “extra small petite teen,” and “Middle School Girls.”⁸⁵ Examples of taglines and categories created by MindGeek are below.



⁸⁵ See <https://financialservices.house.gov/uploadedfiles/hhrg-117-ba10-wstate-mickelwaitl-20210325.pdf>.



115. In 2018, the word “teen” was the seventh most searched term on all of Pornhub.⁸⁶

116. Other eponymous search terms, including “rape,” “preteen,” “pedophilia”, “underage rape,” and “extra small teens,” would call up videos depicting the same.⁸⁷

117. The proliferation of these keywords and tags on the website ensures that when outside users Google these terms, Pornhub, or another MindGeek website, will be among the top results. This draws new users, even those searching the internet for illegal content, to MindGeek websites.

118. MindGeek’s aggressive data collection and traffic analytics mean that MindGeek knows exactly what users are looking for (and what exists) on their sites

⁸⁶ Pornhub, *2018 Year in Review*, Pornhub Insights (December 11, 2018), <https://www.Pornhub.com/insights/2018-year-in-review#searches>.

⁸⁷ Nicholas Kristof, *The Children of Pornhub*, N.Y. Times (Dec. 4, 2020), <https://www.nytimes.com/2020/12/04/opinion/sunday/Pornhub-rape-trafficking.html?searchResultPosition=1>.

and that this includes sex trafficking material and CSAM. For example, as the *New York Times* recently reported, as of December 4, 2020, a search for “girlunder18” led to more than 100,000 videos. And a search for “14yo” led to more than 100,000 videos and “13yo” led to approximately 1555,000 videos⁸⁸. MindGeek sought to capitalize on such traffic by allowing illegal search terms, creating suggested search terms, keywords, and tags.

MindGeek’s moderation policies and practices

119. Unlike other video websites like YouTube, MindGeek’s websites also include a download button to allow for the transfer of images and videos, including child sexual abuse material, allowing an undisclosed number of child pornographers, child sex traffickers, and pedophiles permanent access to and control over the material.

120. MindGeek maintains an offshore “moderation team” whose primary job is that of formatting content, internally they are referred to as formatters, but who are also tasked with reviewing uploaded videos to identify (but not necessarily reporting or blocking) anything “inappropriate,” including, but not limited to, child pornography videos.

121. There are essentially three categories of “inappropriate” videos that these individuals are tasked with identifying: (1) underage; (2) slightly underage and

⁸⁸ See <https://www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-trafficking.html>.

(3) non-minor inappropriate videos, such as bestiality videos or videos where someone is being murdered.

122. Workers at MindGeek report categorizing and tagging sex acts and fetishes, as well as viewing “suspicious” content, “from puppies being kicked to death, to child abuse, rape and incest.”⁸⁹

123. MindGeek’s philosophy is that if videos appeared to be “professionally made,” moderators were to assume that they were not child pornography and should not be flagged as inappropriate.

124. Moderators were instructed to assume MindGeek’s business partners, Channel Partners and Modelhub members, were abiding by the rules and to upload their content with little scrutiny.

125. Even where videos were acknowledged as CSAM-- or carrying illegitimate search terms -- MindGeek has sometimes just retitled these videos and has failed to remove them from being viewed or downloaded.⁹⁰

126. Despite the incredible volume of material being posted, MindGeek employs around ten people on this team at any given time throughout the day to review all MindGeek tube sites, including YouPorn, RedTube, XTube, Tube8, and

⁸⁹ Daily Mail, *Our job was to find weird excuses not to remove them': Pornhub moderators, who watched 1,200 videos A DAY, reveal lenient guidelines at the site being sued for \$80m for 'profiting from sex trafficking'*, (Dec. 17, 2020, 5:29 PM).

<https://www.dailymail.co.uk/news/article-9065059/Ex-Pornhub-moderators-reveal-life-inside-explicit-video-site-sued-80m.html>.

⁹⁰ Nicholas Kristof, *supra* note 81.

Pornhub. These people have no prior training, medical or otherwise, to identify whether someone depicted in a pornographic video is a child.

127. The ten individuals on the “moderation/formatting team” were each tasked by MindGeek to review approximately 800-900 pornographic videos per 8-hour shift, or about 100 videos per hour. According to Pornhub, there are approximately 18,000 videos uploaded daily, with an average length of approximately 11 minutes per video.⁹¹ Hence, each moderator is tasked with reviewing approximately 1,100 minutes of video *each hour*. This is an impossible task, and MindGeek knows that.⁹²

128. To compensate for and accomplish the impossible task, moderators/formatters fast-forward and skip through videos, often with the sound turned down. The problem is not resources: MindGeek’s annual revenues are at least \$500 million, and it could certainly hire and train more true moderators.

129. There is a yearly bonus system, based on the number of videos approved. This results in individuals fast-forwarding to the end of videos (or not reviewing them at all) and approving them, even if they depict sex trafficking of children.

⁹¹ See Pornhub, *supra* note 15.

⁹² See parl.vu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2/20210205/-1/34697?Language=English&Stream=Video at 14:01.

130. The impossible conditions also result in low morale for the individuals tasked with reviewing videos. These moderators/formatters watch hours upon hours of demoralizing and disturbing videos, including child pornography.

131. When minor victims of sex trafficking and their representatives have contacted MindGeek to remove videos of them from its websites, MindGeek has refused to do so.

132. In some cases, MindGeek moderators/formatters even looked at video comments, deleted those noting a video constituted child pornography or otherwise should be removed from the system, and left the video up.

133. The MindGeek moderators/formatters are discouraged from removing illegal content for particularly profitable users. Generally, when an uploader has a history of highly viewed content, the employees are only permitted to send warning letters about illegal or inappropriate content.

134. Worse, not all of the moderators/formatters even have the authority to remove videos. Even when child pornography is reported, the video could only be removed by the “team leader.” There is an approximate backlog of five months between when a user reports a video and a “team leader” reviews it to determine whether to remove it. Thus, such videos would sit on MindGeek’s sites for five months, available for download and redistribution.

135. MindGeek was not registered with NCMEC to report as an electronic service provider until 2020⁹³. Thereafter, MindGeek, across all of its websites, submitted only 4,171 unique reports to NCEMC in 2020, which clearly underreported coming from a pornographic site when compared to a non-pornographic site like Facebook, which reported 20 Million CSAM instances to NCME in 2020.

136. MindGeek's failure to report to NCMEC has another consequence: even when they actually ban users for child pornography or rape, that user's data (and videos) are banned for only 90 days (unless MindGeek made a formal law enforcement report and was obligated to preserve that data). After 90 days, all data associated with the banned material and user is deleted leaving no ability for MindGeek to block the user from creating a new account and posting the same video again after 90 days.⁹⁴

137. MindGeek's policies, or lack thereof, incentivize its employees not to remove child pornography and other inappropriate content, and sometimes prevent them from doing so altogether.

⁹³ For the year 2020, MindGeek made only 13,229 reports of CSAM to NCMEC and then clarified in its 2020 "Transparency Report" that many were duplicates. Pornhub, *Transparency Report*, Pornhub Help Center, help.pornhub.com/hc/en-us/articles/1260803955549-Transparency-Report, (last visited Mar. 20, 2021).

⁹⁴ See, at para. 3.

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

138. MindGeek's policies also allow and incentivize users to view, post, obtain, and trade illegal content in the first place.

139. MindGeek permits and encourages the use of VPN connections (less secure and less traceable connection) to create accounts, browse and process videos, including those containing illegal content, so as to keep the users' location and true identity private and anonymous.

140. MindGeek profits from encouraging VPN use, and in May 2018 launched its own VPN service. VPN not only disguises who is accessing the site, but permits banned users to re-enter the site and reuse the banned images or videos as well as the associated comments, tags, keywords etc.

141. MindGeek has both free and paid for VPN options which permits MindGeek to obtain all browsing data, including searches for banned terms, keywords, taglines, and associated comments. This data creates another avenue for MindGeek to capitalize and share in profits from selling the data and prime advertising spots.

142. As set forth in more detail above, MindGeek has signaled in a number of other ways to users, including sex traffickers, that illegal content will be tolerated and enabled on its sites, including: (1) lack of meaningful verification of identity, including user and video performer ages, (2) no attempt to obtain consent from all performers in the video, (3) no prohibition on user accounts having "managers," (4)

permitting downloads (inviting re-uploads of banned content), (5) permitting completely anonymous uploads, and (6) lack of other available safeguard processes.

143. MindGeek apparently stores a copy of all content on its servers, even CSAM, regardless of whether the content has been removed from public view.⁹⁵

144. Even when content has been removed at the request of NCMEC, MindGeek has continued to profit from this material by disabling the video or image but keeping the link to the video live with all of the associated metadata, keywords, comments, and tags so that this link will still appear in the search engine results for someone searching for this illegal material. The user is then led to Pornhub with the message that the video was removed, but there is also a message created by MindGeek suggesting “related videos” to further engage the viewer on their site. Additionally, this allows the video to continue to feed SEO as the tags, keywords, and title are still live on the site and continue to garner traffic.

145. In one instance, a prepubescent victim was anally raped in a video featured on Pornhub. The video was uploaded to the site three times. There is documented evidence the video was reported to Pornhub but Pornhub did not act

⁹⁵ David Tassillo, *Ethics Comm. Hearing No. 19*, at 01:43:32, Rev Services, (transcript available at https://www.rev.com/transcript-editor/Edit?token=pDJZXRxyq4VuaWS8iBgqv7QjFhGv59zMODLlIXeippTyog_pi8dUiKFUVlNM6_T7bLqE0XRlOVM68fXC6hPFOw8zd9k&loadFrom=DocumentDeeplink&ts=6212.05).

until NCMEC issued a take-down request. Even after Pornhub was forced to remove the video, it left the link, title, and tags on the site to continue to drive traffic⁹⁶.



146. MindGeek has hosted and is in possession of a surfeit of additional illegal content, including rape videos, child sexual abuse materials (CSAM),⁹⁷ videos produced through sex trafficking,⁹⁸ and nonconsensually shared pornography.⁹⁹

⁹⁶ See <https://financialservices.house.gov/uploadedfiles/hhrg-117-ba10-wstate-mickelwaitl-20210325.pdf>.

⁹⁷ See Scott McDonald, *Florida Man Arrested After 58 Porn Videos, Photos Link Him To Missing Underage Teen Girl*, Newsweek (Oct. 23, 2019, 11:46 PM), <https://www.newsweek.com/florida-man-arrested-after-58-porn-videos-photos-link-him-missing-underage-teen-girl-1467413>.

⁹⁸ See Samantha Cole, *Girls Do Porn Employees Charged With Sex Trafficking, Potentially Face Life in Prison*, VICE (Oct. 11, 2019), <https://www.vice.com/en/article/qvgxvw/girls-do-porn-employees-charged-with-sex-trafficking-potentially-face-life-in-prison>.

⁹⁹ See Harriert Grant, *World's biggest porn site under fire over rape and abuse videos*, The Guardian (Mar. 9, 2020, 3:00 PM),

147. At least some of this content violates § 1591 and has been reported to MindGeek as such. That is, any content involving minors is per se sex trafficking, and any content produced through force, fraud, or coercion is also sex trafficking.

148. Because MindGeek has monetized all of the pornographic content, including those involving minors who are necessarily trafficking victims, on its site through Modelhub revenue, Modelhub tips, advertisements, data mining, and premium subscriptions,¹⁰⁰ it is facilitating and profiting from commercial sex acts.

D. SEX TRAFFICKING OF PLAINTIFF JANE DOE #1 VIA MINDGEEK

149. In 2018, when Jane Doe #1 was just sixteen years old, she was drugged and raped by a man in Tuscaloosa, Alabama.

150. The child sexual abuse and rape of Jane Doe #1 was filmed.

151. That same man entered into a business agreement or profit sharing relationship with MindGeek under its Modelhub program. Under the terms of that program, MindGeek and Jane Doe #1's rapist agreed to share profits from views and downloads of Jane Doe #1's victimization on MindGeek's websites.

152. MindGeek reviewed, categorized, tagged, optimized for user preferences, and disseminated the images, tags and videos depicting the rape and sexual exploitation of sixteen-year-old Jane Doe #1. One of the videos of Jane Doe

<https://www.theguardian.com/global-development/2020/mar/09/worlds-biggest-porn-site-under-fire-over-videos-Pornhub>.

¹⁰⁰ Modelhub, *surpa* note 61.

#1 had been viewed over 2,400 times since MindGeek added it to its websites in early 2018.

153. At no time did MindGeek or Pornhub attempt to verify Jane Doe #1's identity or age, inquire about her status as a victim of trafficking, or otherwise protect or warn against her traffickers before or while the video of her being raped, after she had been drugged, was sold, downloaded, viewed, advertised and otherwise monetized on Pornhub.

154. At least two videos that included Jane Doe #1 have been identified. One had a title that included the word "Lil" which is often used to signify youth.¹⁰¹

155. Videos of an adult engaging in sex acts with Jane Doe #1 while she was a minor were uploaded by a MindGeek official Modelhub member and disseminated through websites owned, operated and/or controlled by Defendants. Neither Pornhub, nor any other website, owned or operated by Defendant MindGeek attempted to verify Jane Doe #1's identity or age. As a result, child sex abuse material depicting Jane Doe #1 was distributed broadly throughout the world on Defendants' websites.

156. Jane Doe #1's experience is not unique to her. In a recent study conducted by the Canadian Centre for Child Protection, 67% of child sexual abuse survivors said distribution of their images impacts them differently than the hands-

¹⁰¹ *Lil*, Dictionary.com, <https://www.dictionary.com/e/slang/lil/> (last visited Mar. 20, 2021).

on abuse they suffered, because the distribution never ends and the images are permanent.¹⁰²

157. Jane Doe #1 has suffered from knowing the scope and extent of the distribution, production, possession and/or advertising of the videos of her.

158. Jane Doe #1 knows that because her videos have been downloaded, using the easy-to-find “Download” button that MindGeek placed on them, she is at risk that the video of her rape will be further disseminated -- even uploaded a second time to a MindGeek platform, under a different name or with different tags.

159. The broad dissemination of child sex abuse material depicting Jane Doe #1 has severely harmed Jane Doe #2, including financial, physical, emotional, and reputational harm.

160. Thus Jane Doe #1 is at present risk of further harm if video of her rape is further disseminated. Because of MindGeek’s practices, this is all too likely.

E. SEX TRAFFICKING OF PLAINTIFF JANE DOE #2 VIA MINDGEEK

161. Jane Doe #2’s sex trafficking began when she was just fourteen (14) years old.

162. When she was still a minor, a sex trafficker introduced Jane Doe #2 to individuals who produced sexually explicit videos. The trafficker forced Jane Doe

¹⁰² Canadian Centre for Child Protection, *Survivors’ Survey: Executive Summary 2017*, at 30 (2017), https://protectchildren.ca/pdfs/C3P_SurvivorsSurveyExecutiveSummary2017_en.pdf.

#2 to participate in the creation of sexually explicit videos that included adults engaging in sex acts with her. She was never paid for her participation in the production of these videos.

163. Videos of adults engaging in sex acts with Jane Doe #2 while she was a minor were uploaded and disseminated through websites owned, operated and/or controlled by Defendants, including, but not limited to Pornhub and Redtube.

164. At least four videos that included Jane Doe #2 being trafficked as a minor have been identified. For Jane Doe #2's privacy and safety, Plaintiffs will be moving for leave to file the names of those videos with the Court under seal.

165. The videos depicting Jane Doe #2's child abuse were uploaded by a Pornhub official Content Partner with whom MindGeek had a continuous business relationship for years which included profit sharing, promotion, advertising and the benefit of little to no scrutiny by MindGeek moderators.

166. These videos remained on MindGeek's websites for at least four (4) years and were available for view and download all around the world and within the United States and the state of Alabama. On information and belief, residents of Alabama downloaded videos of Jane Doe #2's rape from MindGeek websites.

167. Pornhub is one of the most trafficked websites in the world, in 2019 it garnered more traffic than tech giants Amazon and Netflix¹⁰³. Alabama ranks second among all states for longest time spent on Pornhub per visit, time spent at least in part, viewing videos of Jane Doe #2's rape. MindGeek boasts 115 million daily visitors to its websites and 3 billion ad impressions from "dozens of millions of daily visitors¹⁰⁴" including visitors from Alabama which garnered ad revenue for MindGeek for years from viewing Jane Doe #2's abuse. On information and belief, in these ways, Defendants have profited specifically from people in Alabama viewing videos of Jane Doe #2's rape.

168. Neither Pornhub, nor any other website, owned or operated by MindGeek undertook any measure to verify Jane Doe #2's identity or age. As a result, child sex abuse material depicting Jane Doe #2 was distributed broadly throughout the world on Defendants' internet platforms until at least Spring 2020.

169. Jane Doe #2 continues to be traumatized, every single day, by MindGeek, whose platform is being used to permit the continued and repeated dissemination of these horrific videos for sexual gratification and for profit.

¹⁰³ See <https://businessinthenews.co.uk/2020/07/19/Pornhub-receives-more-website-traffic-than-amazon-and-netflix-new-research-reveals/#:~:text=Tech-,Pornhub%20receives%20more%20website%20traffic,and%20Netflix%2C%20new%20research%20reveals!&text=A%20new%20report%20reveals%20the,social%20media%2C%20ecommerce%20to%20entertainment!&text=Adult%20entertainment%20site%20Pornhub%20receives%20more%20traffic%20than%20Amazon%20%26%20Netflix!>

¹⁰⁴ See <https://www.mindgeek.com/>.

170. Jane Doe #2 is aware of the scope and extent of the distribution of the videos of her, as well as the breadth of the MindGeek network.

171. Jane Doe #2 knows that because her videos have been downloaded, using the easy-to-find “Download” button that MindGeek placed on them, she is at risk that the video of her trafficking will be further disseminated -- even uploaded a second time to a MindGeek platform, under a different name or with different tags.

172. The broad dissemination of child sex abuse material depicting Jane Doe #2 has severely harmed Jane Doe #2, including financial, physical, emotional, and reputational harm.

173. As described above, MindGeek’s moderation/formatting team is inadequate, and the company has frequently permitted the re-uploading of illicit videos.

174. Thus Jane Doe #2 is at present risk of further harm if video of her is further disseminated. Because of MindGeek’s practices, this is all too likely.

F. JANE DOES #1 AND 2 AND MEMBERS OF CLASS CONTINUE TO SUFFER IRREPARABLE HARM

175. Class members, including Plaintiffs, remain at risk of irreparable harm due to Defendants’ failure to enact and enforce appropriate and sufficient policies, procedures, and processes for the prevention of child pornography from being added to Defendants’ sites.

176. On behalf of the Class and themselves, Plaintiffs seek injunctive and equitable relief requiring the Defendants to identify and remove child pornography and implement corporate-wide policies and practices to prevent continued dissemination of child pornography or child sex trafficking.

177. Because of the insidious nature of child sex trafficking and child pornography, all of this relief is necessary to protect the present and future interests of Plaintiffs and Class members.

CAUSES OF ACTION

COUNT I:

BENEFITING FROM A SEX TRAFFICKING VENTURE IN VIOLATION OF THE TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT, 18 U.S.C. §§ 1591 AND 1595 (Plaintiffs and the Class Against All Defendants)

178. Plaintiffs reallege and incorporate by reference all prior and subsequent paragraphs as if fully incorporated herein.

179. Defendants knowingly used the instrumentalities and channels of interstate and foreign commerce to facilitate violations of 18 U.S.C. §§ 1591(a)(1) and 1595(a), occurring within the territorial jurisdiction of the United States.

180. Defendants' conduct was in, or affected, interstate and/or foreign commerce.

181. Defendants knowingly benefited from participation in what they knew or should have known was a sex trafficking venture, in violation of 18 U.S.C. §§

1591(a)(2) and 1595(a).

182. Defendants monetize content on their platforms through user-focused products and services, such as advertisements and data collection as well as share profits with and make direct payments to child traffickers via their Modelhub program, Content Partners, and otherwise.

183. Defendants' ability to monetize their platforms is directly related to the number of users who visit and view content on their platforms. The number of users using Defendants' platforms are inherently valuable to Defendants, and directly affects their ability to draw revenue from their platforms, and share it with traffickers.

184. Defendants knowingly benefited from, and/or received something of value for their participation in the venture, in which Defendants knew, should have known, or were in reckless disregard of the fact that the Plaintiffs and other Class members were engaged in commercial sex acts while under the age of eighteen.

185. Defendants' employees and agents had actual knowledge that they were facilitating and participating in a scheme to profit from the commercial sex acts of minor children.

186. Defendants' acts, omissions, and commissions, taken separately and/or together, outlined above, constitute a violation of 18 U.S.C. §1595.

187. Defendants' conduct has caused class members including Plaintiffs

serious harm including, without limitation, physical, psychological, financial, and reputational harm.

COUNT II:
RECEIPT AND DISTRIBUTION OF CHILD PORNOGRAPHY, 18
U.S.C. § 2252 and 2252A
(Plaintiffs and the Class Against All Defendants)

188. Plaintiffs reallege and incorporate by reference all prior and subsequent paragraphs as if fully incorporated herein.

189. Defendants knowingly received, possessed, and distributed child pornography depicting Class members including Plaintiffs, violating 18 U.S.C. §§ 2252 and 2252A.

190. Defendants also duplicated and distributed new child pornography depicting Class members by creating and hosting new “thumbnail” images from existing videos of Class members.

191. Defendants’ receipt, possession, and distribution of child pornography occurred in or affected interstate or foreign commerce.

192. As a proximate result of Defendants’ violation of 18 U.S.C. §§ 2252 and 2252A, Class members, including Plaintiffs, suffered serious harm, including physical, psychological, financial, and reputational harm.

193. Defendants’ conduct was malicious, oppressive, or in reckless disregard of Plaintiffs’ rights and Class members’ rights. They are entitled to

injunctive relief, compensatory and punitive damages, and the costs of maintaining this action. 18 U.S.C. § 2252A(f).

CLASS ACTION ALLEGATIONS

194. Plaintiffs Jane Does Nos. #1 and #2 bring this action under to Federal Rules of Civil Procedure 23(b)(2), (b)(3), and 23(c)(4), on behalf of themselves and the following “Class”:

All persons, who were under eighteen years of age at the time they were depicted in any video or image, (1) in any commercial sex act as defined under 18 U.S.C. §§ 1591 and 1595, or (2) in any child pornography as defined under 18 U.S.C. § 2252A, that has been made available for viewing on any website owned or operated by the Defendants.

195. Plaintiffs reserve the right to seek leave to modify this definition, including the addition of one or more subclasses, after having the opportunity to conduct discovery.

196. Numerosity: The Class consists of thousands of people, making joinder impracticable, in satisfaction of Fed. R. Civ. P. 23(a)(1). The exact size of the Class and the identities of the individual members of the Class cannot be known. However, based on the statistics showing that tens of millions of reports of abuse

have been made to NCMEC and Defendants' status as the largest distributor of pornography in the United States with no adequate age verification, there is no issue establishing the numerosity requirement.

197. Typicality: Plaintiffs' claims are typical of the claims of the other members of the Class that they seek to represent. The claims of the Plaintiffs and the other members of the Class are based on the same legal theories and arise from the same unlawful pattern and practice of Defendants' sex trafficking. Plaintiffs, like all members of the Class, were victimized by Defendants profiting from videos depicting Plaintiffs in commercial sex acts or child pornography which Defendants knew, or should have known, were filmed while they were minors.

198. Commonality: There are many questions of law and fact common to the claims of Plaintiffs and the other members of the Class, and those questions predominate over any questions that may affect only individual members of the Class, within the meaning of Fed. R. Civ. P. 23(a)(2). Additionally, class treatment of common issues under Fed. R. Civ. P. 23(c)(4) will materially advance the litigation. Common questions of fact and law affecting members of the Class include, but are not limited to, the following:

- a. Whether videos depicting minors in commercial sex acts or child pornography appear on Defendants' platforms;
- b. Whether Defendants profited from videos depicting minors in commercial sex acts or child pornography appearing on Defendants' platforms;
- c. Whether Defendants' internal controls were adequate to stop videos depicting minors in commercial sex acts or child pornography from appearing on Defendants' platforms;
- d. Whether Defendants knew or should have known that videos depicting minors in commercial sex acts or child pornography appear on Defendants' platforms;
- e. Whether Defendants' conduct constitutes sex trafficking, dissemination of videos depicting minors in commercial sex acts or child pornography, or child exploitation in violation of 18 U.S.C. §§ 1591, 1595, and 2252A; and
- f. The scope of the injunctive relief and damages to which the Plaintiffs and members of the Class are entitled.

199. Adequacy: Plaintiffs will fairly and adequately protect the interests of the Class. Plaintiffs' interests and the interests of all other members of the Class are identical, and Plaintiffs are cognizant of their duty and responsibility to the Class. Accordingly, Plaintiffs can fairly and adequately represent the interests of the Class. Moreover, Plaintiffs' counsel are competent and have a wealth of experience litigating claims regarding sex trafficking and exploitation of minors, complex commercial litigation, and class actions. Plaintiffs and counsel intend to vigorously

prosecute this case and will fairly and adequately protect the Class' interests. Neither Plaintiffs nor their counsel have any interests adverse to those of the other members of the Class.

200. Equitable relief: Class certification is appropriate under Rule 23(b)(2) because Defendants have acted and refused to act on grounds generally applicable to the Class as a whole, such that final injunctive relief is appropriate with respect to the Class as a whole. The nature of the relief sought is described in this Complaint.

201. Absent a class action, most of the members of the Class would find the cost of litigating their claims to be cost-prohibitive and will have no effective remedy. Class treatment of common questions of law and fact is also superior to multiple individual actions or piecemeal litigation, in that it conserves the resources of the courts and the litigants and promotes consistency and efficiency of adjudication. Finally, Class treatment would minimize the trauma that Class members would experience as a result of litigating their claims on an individual basis, and further promotes the remedial purposes of the federal statutes under which the claims are brought.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of the Class, respectfully request that the Court enter a judgment on their behalf and against Defendants, and further grant the following relief:

- A. Certify the proposed Class pursuant to the Federal Rules of Civil Procedure Rule 23(a), (b)(2), (b)(3) and (c)(4);
- B. Designate Plaintiffs as representatives of the proposed Class and Plaintiffs' counsel as counsel for the Class;
- C. Award injunctive or any other equitable relief, to Plaintiffs and the Class, requiring the Defendants to identify and remove child pornography and implement corporate-wide policies and practices to prevent continued dissemination of child pornography or child sex trafficking, including but not limited to:
 - 1) Every person appearing in every video must be appropriately verified as age and consent.
 - 2) Defendants must use facial recognition technology to verify consent and account owner and to ensure no reupload of nonconsensual or illegal material.

- 3) Defendants must remove all images and videos of Plaintiffs and Class members from their platforms and archive it for use in this litigation.
- 4) Defendants must timely respond to all reports of child pornography, and immediately report them to the appropriate child protection agency.
- 5) Defendants should disable the “Download” button on videos so that it is not as easy for sex traffickers to disseminate videos of Plaintiffs, causing future harm.
- 6) Defendants must use automated hash technologies to proactively scan for known CSAM, including marking their own, including Plaintiffs and class members’ rapes. Defendants should consistently check hash values against all databases available, including but not limited to the Shield by Project Arachnid databases maintained by the Canadian Centre for Child Protection and the National Center for Missing and Exploited Children.

- 7) Defendants should send all government IDs that have been associated with any video or account to the databases maintained by States and the United States, including the FBI and the National Center for Missing and Exploited Children, so that sex offenders can be identified and sex-crime victims can be protected.
- 8) Defendants must use human moderators to screen each video and image for child pornography or trafficking of minors before this material is made available to the public.
- 9) Defendants should adequately train individuals tasked with screening videos and images on identifying potential child pornography or trafficking.
- 10) Defendants should employ standards for screening for child pornography.
- 11) Defendants should promptly terminate any employees who have failed to fairly moderate material.

- 12) Defendants should adequately staff their moderation/formatting teams tasked with screening videos and images so that all videos are screened in their entirety.
- 13) Defendants should end the employee bonus program that is based on the raw number of videos approved per year.
- 14) Defendants should ban individuals who have uploaded child pornography or trafficking videos or images from having the ability to upload anything to a website owned, controlled, or operated by Defendants ever again.
- 15) Defendants should limit the number of hours moderators or employees can review videos and images on a daily basis, so as to reduce the incidence of “employee burnout” or turnover relating to the traumatic nature of the work.
- 16) Defendants should refuse to publish videos and images that have been flagged or are suspected of containing child pornography or trafficking.
- 17) Defendants should immediately send all videos and images with suspected or confirmed child pornography or trafficking to the

appropriate child protection agency, such as NCMEC or the Canadian Centre for Child Protection, along with all information available to identify perpetrators or victims.

- D. Award all available damages including but not limited to compensatory and punitive damages in favor of Plaintiffs and the Class; and
- E. Award Plaintiffs and the Class prejudgment interest, costs and attorneys' fees;
- F. Require restitution and disgorgement of all profits and unjust enrichment obtained as a result of Defendants' unlawful conduct; and
- G. Retain jurisdiction of this matter to ensure all forms of relief it deems appropriate.

JURY DEMAND

Plaintiffs hereby demand a trial by struck jury.

Respectfully submitted,

/s/ Gregory Zarzaur

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CERTIFICATE OF SERVICE

I hereby certify on this 23rd day of July, 2021, this document was filed through the Electronic Case Filing System of the United States District Court for the Northern District of Alabama and will be served electronically by the court to all participants of record.

/s/ Gregory Zarzaur
Gregory Zarzaur