

CAUSE NO. \_\_\_\_\_

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|-------------------------|---|--------------------------|
| STATE OF TEXAS,         | § | IN THE DISTRICT COURT OF |
| <i>Plaintiff,</i>       | § |                          |
|                         | § |                          |
| v.                      | § | TRAVIS COUNTY, TEXAS     |
|                         | § |                          |
| HAMMY MEDIA, LTD. D/B/A | § | 53RD, DISTRICT COURT     |
| xHAMSTER.COM,           | § |                          |
| <i>Defendant.</i>       | § | _____ JUDICIAL DISTRICT  |

**Plaintiff’s Original Verified Petition and Application for Permanent Injunction**

Defendant HAMMY MEDIA, LTD. D/B/A xHAMSTER.COM (“Hammy Media”) publishes sexually explicit material online that is accessible and harmful to Texas children and adolescents. Civil Practice and Remedies Code Chapter 129B protects Texas minors from the harmful sexually explicit material that can be found on the xHamster website. This recent Texas law requires pornographic websites, like those of Hammy Media, to use reasonable age verification measures to ensure those viewing its pornography are 18 years of age or older.

Hammy Media is in continuing violation of Texas law. There is an ongoing threat to the public—specifically Texas children and adolescents—by Hammy Media’s continuing violation of Texas Civil Practice and Remedies Code Chapter 129B. Consequently, as authorized by statute, the State of Texas, by and through Ken Paxton, the Attorney General of Texas, files this Original Petition and Application for Permanent Injunction asking the Court to order Hammy Media to comply with Texas law and to impose civil penalties of up to \$10,000 a day since September 19, 2023.

**INTRODUCTION**

1. Sexually explicit material on the internet has become increasingly accessible to Texas children and adolescents. Exposure to this material is harmful and can be associated with many negative emotional, psychological, and physical health outcomes for preadolescent users. House Comm. on Jud. & Civ. Juris., Bill Analysis, Tex. H.B. 1181, 88<sup>th</sup> Leg., R.S. (2023).

2. Approximately one in five youth experience unwanted online exposure to sexually explicit material. *Id.*

3. HB 1181, codified at Chapter 129B of the Texas Civil Practices and Remedies Code, holds individuals and entities who publish sexual material harmful to minors on a website accountable by setting out age verification requirements and creating liability for those who violate certain requirements. *Id.*

4. Chapter 129B of the Texas Civil Practices and Remedies Code became effective on September 1, 2023.

5. Chapter 129B requires that websites use reasonable age verification methods, as described in the statute, to verify that an individual attempting to access sexual material harmful to minors is 18 years of age or older.

6. Hammy Media is a commercial entity that knowingly and intentionally publishes or distributes material on xHamster.com an internet website, more than one-third of which is sexual material harmful to minors.

7. Hammy Media does not use reasonable age verification methods as required by Chapter 129B.

8. The State of Texas, by and through the Attorney General, is authorized to bring an action against an entity who is knowingly violating Chapter 129B.

#### **NATURE OF SUIT**

9. The State of Texas brings this action to enjoin continuing violations of Chapter 129B and compel Hammy Media to comply with Texas law. Hammy Media's publication or distribution of sexual material harmful to minors on the internet without implementing the reasonable age verification methods required by Chapter 129B harms, and continues to harm, Texas children and adolescents.

## DISCOVERY CONTROL PLAN

10. Discovery is intended to be conducted under Level 2 of Texas Rule of Civil Procedure 190.3.

11. The State of Texas seeks injunctive relief. Therefore, this suit is not governed by the expedited actions process in Tex. R. Civ. P. 169.

## VENUE

12. Venue is proper in Travis County under Texas Civil Practices and Remedies Code section 129B.006(a).

## JURISDICTION

13. Defendant Hammy Media is a pornographic media company headquartered at 79 Spyrou Kyprianou, Protopapas Bldg., Floor 2, Flat 201, Limassol, 3076 Cypress (P.O. Box 59532, Limassol, 4010 Cypress). Hammy Media conducts business throughout the United States, including within the State of Texas. This Court has personal jurisdiction over Hammy Media in accordance with Texas Civil Practice & Remedies Code § 17.042 because at all times material to this action Hammy Media has engaged in business in Texas. Plaintiff is unaware of any physical place of regular business maintained by Hammy Media in Texas. Hammy Media has no designated agent in Texas on whom service of citation may be made in this action. Hammy Media may be served with process by serving the Texas Secretary of State. Tex. Civ. Prac. & Rem. Code § 17.044.

## PARTIES

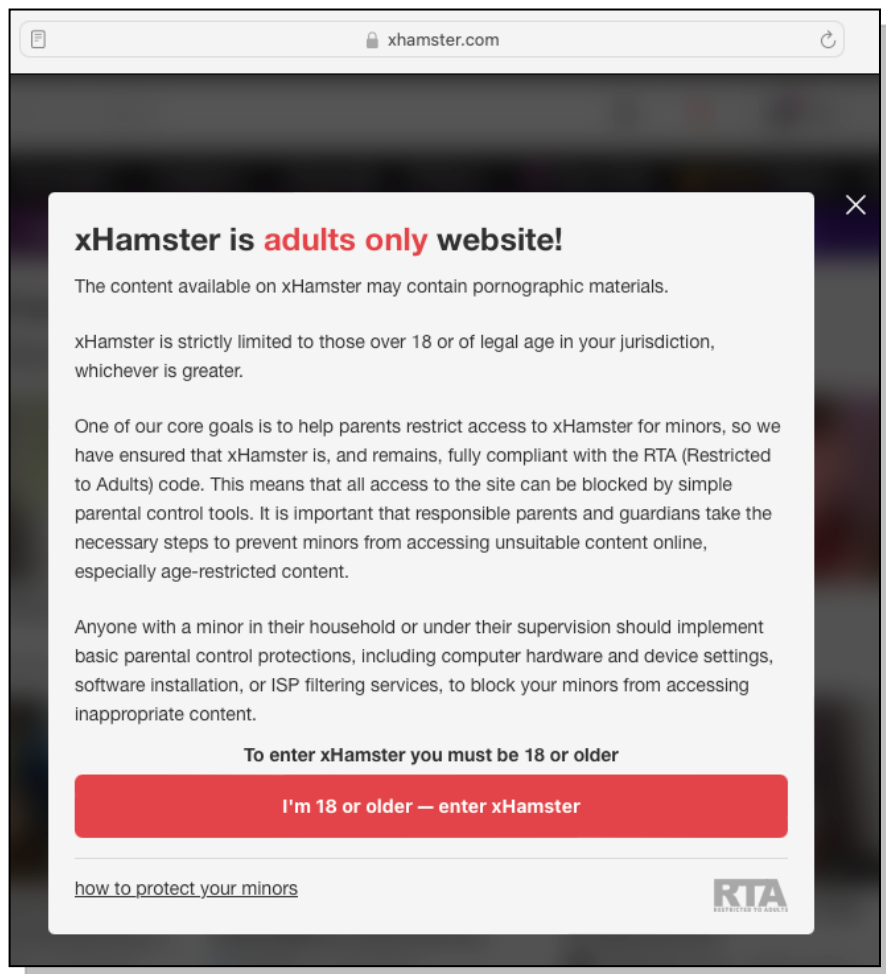
14. Plaintiff is the State of Texas.

15. Defendant Hammy Media is a foreign pornographic media company headquartered at 79 Spyrou Kyprianou, Protopapas Bldg., Floor 2, Flat 201, Limassol, 3076 Cypress, (P.O. Box 59532, Limassol, 4010 Cypress), conducting business throughout the United States, including within the State of Texas. Defendant Hammy Media owns the popular pornographic website xHamster.com (as well as xHamster.net, xHamster2.com, amp.xHamster.desi, and xHamster3.com) through which it distributes sexual material harmful to minors.

## FACTUAL ALLEGATIONS AND VIOLATIONS

16. Hammy Media is in violation of Civil Practice and Remedies Code Chapter 129B by knowingly and intentionally publishing or distributing sexual material harmful to minors without implementing reasonable age verification methods, on the landing pages of its internet websites, including xHamster.com, xHamster.net, xHamster2.com, amp.xHamster.desi, and xHamster3.com.

17. Hammy Media's continuing violations of Chapter 129B places Texas children and adolescents at risk of viewing harmful online sexually explicit material. Despite its ongoing failure to implement the protections required by Texas law, the Defendant nevertheless recognizes the law's importance by presenting visitors to its sites with the following message:



Although it proclaims that “[a]nyone with a minor in their household ” should take steps to “block your minors from accessing inappropriate content,” the Defendant—as the provider of the inappropriate content—takes no meaningful steps to protect Texas children from the sexual material harmful to minors it distributes.

18. Hammy Media has not implemented reasonable age verification methods on its websites as required by Chapter 129B. Minors are able to visit Defendant’s pornographic websites and view sexual material harmful to minors without being required to complete a reasonable age verification method as described in Texas Civil Practice and Remedies Code § 129B.003. Instead, minors who visit Defendant’s websites are presented with the pop-up message shown above and asked to complete the trivial step of clicking an “I’m 18 or older – enter xHamster” button which, ostensibly, verifies the viewer is over the age of 18. However, Defendant does not even require the “I’m 18 or older” button to actually be clicked. Minors can simply click almost anywhere on the webpage away from the “I’m 18 or older” button, including the “X” in the top right corner of the message, to dismiss the pop-up message and proceed to the Defendant’s pornographic website. The age verification methods used by the Defendant on its websites cannot be said to verify anything at all, and they wholly fail to comply with the requirements of Chapter 129B.

**A. Defendant HAMMY MEDIA, LTD.’S D/B/A xHAMSTER.COM is in violation of Texas Civil Practice and Remedies Code §§ 129B.002(a) and 129B.003(b) because it has failed to implement reasonable age verification methods.**

19. Texas Civil Practice and Remedies Code § 129B.002(a) states, “A commercial entity that knowingly and intentionally publishes or distributes material on an Internet website, including a social media platform, more than one-third of which is sexual material harmful to minors, shall use reasonable age verification methods as described by Section 129B.003 to verify that an individual attempting to access the material is 18 years of age or older.”

20. Texas Civil Practice and Remedies Code § 129B.003(b) states, “A commercial entity that knowingly and intentionally publishes or distributes material on an Internet website or a third party that performs age verification under this chapter shall require an individual to:

- (1) provide digital identification; or

- (2) comply with a commercial age verification system that verifies age using:
  - (A) government-issued identification; or
  - (B) a commercially reasonable method that relies on public or private transactional data to verify the age of an individual.

21. Hammy Media is a commercial entity that must comply with Texas Civil Practice and Remedies Code §§ 129B.002 and 129B.003.

22. Each day since September 19, 2023—and continuing still—Hammy Media has violated Civil Practice and Remedies Code §§ 129B.002 and 129B.003.

23. Hammy Media publishes or distributes sexual material harmful to minors on the internet through the websites under the Defendant’s control, including xHamster.com, xHamster.net, xHamster2.com, amp.xHamster.desi, and xHamster3.com.

### **REQUEST FOR RELIEF**

**A. Request for Injunctive Relief under Texas Civil Practice and Remedies Code § 129B.006.**

24. The State of Texas would show that Hammy Media is violating the laws of the State of Texas and will continue to violate such laws unless restrained by a court order enforceable by contempt. Unless Hammy Media is restrained and enjoined by an injunction to require implementation of reasonable age verification methods on the landing pages of its websites, Texas children and adolescents will continue to have access to harmful online sexually explicit materials, and Hammy Media will continue to operate in violation of state law.

25. “If the attorney general believes that an entity is knowingly violating or has knowingly violated this chapter and the action is in the public interest, the attorney general may bring an action in a Travis County district court or the district court in the county in which the principal place of business of the entity is located in this state to enjoin the violation, recover a civil penalty, and obtain other relief the court considers appropriate.” Tex. Civ. Prac. & Rem. Code § 129B.006(a).

26. Pursuant to Texas Civil Practice and Remedies Code § 129B.006, the State of Texas, by and through the Attorney General, seeks an order enjoining Hammy Media from violating Chapter 129B.

**B. Request for Permanent Injunction.**

27. The State of Texas is entitled to a statutory injunction against Hammy Media enjoining its violations of Civil Practice and Remedies Code §§ 129B.002 and 129B.003.

28. Upon notice and hearing, the State of Texas requests the Court enter a permanent injunction warranted by the facts against Hammy Media, its agents, assigns, subsidiaries, successors in interest, and employees, including but not limited to ordering the following:

- A. Concluding that Hammy Media is violating Texas Civil Practice and Remedies Code Chapter 129B.
- B. Enjoining Hammy Media its agents, assigns, subsidiaries, successors in interests, and employees, from forming new entities and transferring assets thereto absent pre-approval from the Court;

Enjoining Hammy Media, its agents, assigns, subsidiaries, successors in interests, and employees, from online publication or distribution of sexual material harmful to minors without implementing reasonable age verification methods required by Texas Civil Practice and Remedies Code sections 129B.002 and 129B.003, to verify that an individual attempting to access the material is 18 years of age or older and

To remain in effect until and unless Hammy Media comes into full compliance with all laws, rules, and procedures under Texas Civil Practice and Remedies Code Chapter 129B, as well as payment of any and all penalties and sanctions the Court may award.

29. The State of Texas is not required to post a bond prior to issuance of injunctive relief pursuant to Texas Civil Practice and Remedies Code section 6.001.

**C. Request for Civil Penalties**

30. “A civil penalty imposed under this section for a violation of Section 129B.002 or 129B.003 may be in an amount equal to not more than the total, if applicable, of \$10,000 per day that the entity operates an Internet website in violation of the age verification requirements of this chapter.” *Id.* § 129B.006(b)(1).

31. As of the date of the filing of this suit, Hammy Media has violated Civil Practice and Remedies Code §§ 129B.002 and .003, for at least 167 days and must pay a civil penalty of up to \$1,670,000, plus up to \$10,000 a day for each day after the date of filing.

32. The Attorney General requests the Court, upon final hearing in this cause, assess civil penalties against Hammy Media in accordance with Texas Civil Practice and Remedies Code § 129B.006(b)(1) up to \$1,670,000, plus \$10,000 a day for each day after the date of the filing of this suit.

#### **D. Request for Attorney's Fees and Other Costs**

33. Pursuant to Civil Practice and Remedies Code § 129.006(d), the State of Texas, by and through the Attorney General, may recover reasonable and necessary attorney's fees and costs incurred in this action.

34. The State of Texas requests that, upon final trial, the Court Order Hammy Media to reimburse the State of Texas, by and through the Attorney General, for all costs of investigation and litigation, including reasonable attorney's fees, reasonable investigative expenses, court costs, witness fees, deposition expenses, and civil administrative costs in accordance with Civil Practice and Remedies Code §129B.006(b)(1).

#### **Prayer**

The State of Texas prays the Court, after notice and hearing, grant the following relief:

- a. A permanent injunction enjoining HAMMY MEDIA, LTD. D/B/A xHAMSTER.COM from further violating Texas Civil Practice and Remedies Code Chapter 129B.
- b. Civil penalties payable by HAMMY MEDIA, LTD. D/B/A xHAMSTER.COM in the amount of up to \$1,670,000 ( \$10,000 a day from September 19, 2023, to the date of the filing of this lawsuit), plus \$10,000 per day for every day after the date of the filing of this lawsuit, under Section 129B.006(b)(1) of the Texas Civil Practices and Remedies Code.



- c. Reasonable and necessary attorney's fees and costs incurred by the State of Texas.
- d. All other relief as the Court deems equitable and just.

Dated: March 19, 2024.

Respectfully submitted,

KEN PAXTON  
Attorney General

BRENT WEBSTER  
First Assistant Attorney General

JAMES LLOYD  
Deputy Attorney General for Civil Litigation

ERNEST C. GARCIA  
Chief, Administrative Law Division

*/s/ Clay Watkins*

CLAYTON R. WATKINS  
Assistant Attorney General  
State Bar No. 24103982

JERRY BERGMAN  
Assistant Attorney General  
State Bar No. 24081694

Administrative Law Division

OFFICE OF THE ATTORNEY GENERAL OF TEXAS

P.O. Box 12548, Capitol Station

Austin, Texas 78711-2548

Telephone: (512) 475-3204

Facsimile: (512) 320-0167

ATTORNEYS FOR PLAINTIFF  
STATE OF TEXAS

CAUSE NO. D-1-GN-24-\_\_\_\_\_

STATE OF TEXAS,  
*Plaintiff,*

v.

HAMMY MEDIA, LTD'S D/B/A  
xHAMSTER.COM,  
*Defendants.*

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

\_\_\_\_TH JUDICIAL DISTRICT

**Declaration of Investigator**

My name is Erik Cabrera. I am over eighteen years of age, am of sound mind, have not been convicted of a felony, and am capable of making this declaration. I am an Investigator in the Office of the Texas Attorney General, Criminal Investigation Division / Child Exploitation Unit / Southern Texas ICAC Task Force.

I have read the above Original Verified Petition and Application for Permanent Injunction. I verify that the facts stated therein are within my personal knowledge and are true and correct.

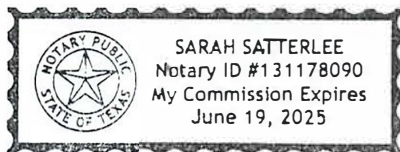


Erik Cabrera

Sworn and subscribed before me on this 4th day of March, 2024.



Notary Public



### Automated Certificate of eService

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Meridith Fischer on behalf of Clayton Watkins

Bar No. 24103982

meridith.fischer@oag.texas.gov

Envelope ID: 85725830

Filing Code Description: Petition

Filing Description: PLAINTIFF'S ORIGINAL VERIFIED PETITION AND APPLICATION FOR PERMANENT INJUNCTION

Status as of 3/20/2024 7:05 AM CST

Associated Case Party: STATE OF TEXAS

| Name             | BarNumber | Email                          | TimestampSubmitted   | Status |
|------------------|-----------|--------------------------------|----------------------|--------|
| Clayton Watkins  |           | clayton.watkins@oag.texas.gov  | 3/19/2024 4:05:58 PM | SENT   |
| Meridith Fischer |           | Meridith.Fischer@oag.texas.gov | 3/19/2024 4:05:58 PM | SENT   |
| Jerry Bergman    |           | jerry.bergman@oag.texas.gov    | 3/19/2024 4:05:58 PM | SENT   |
| Christian Young  |           | christian.young@oag.texas.gov  | 3/19/2024 4:05:58 PM | SENT   |
| Ernest Garcia    |           | ernest.garcia@oag.texas.gov    | 3/19/2024 4:05:58 PM | SENT   |