Vital Briefing

Elon Musk's X.AI sues Minnesota AG to prevent enforcement of new 'anti-nudification' law

By Thomas Long, J.D.

Artificial intelligence company, X.AI LLC ("xAI") has filed suit against Minnesota Attorney General Keith Ellison, seeking an injunction to prevent him from enforcing the state's sweeping new law aimed at "nudification" technology offered to users by online social media platforms and other services. The Minnesota statute is the first in the country to impose liability on platform operators themselves, rather than only the creators of sexually abusive "deepfake" images and videos. According to xAI—which is a wholly-owned subsidiary of Elon Musk's SpaceX company—the new law will unconstitutionally interfere with the operation and marketing of its flagship family of generative AI models known as Grok, which includes tools for altering and generating images. The complaint (*X.AI LLC v. Ellison*, No. 0:26-cv-03425 (D. Minn. Jul. 27, 2026)) asserts that the law violates xAI's expressive rights by imposing strict liability for conduct that is "possible only by evading sophisticated, state-of-the-art controls that xAI employs."

Minnesota anti-nudification law. The legislation (H.F. 1606, 2026 Minnesota Session Laws Chapter 72) created Minnesota Statutes Section 325E, titled "Prohibition on Nudification Technology." The law was signed on May 7 and took effect August 1. It is reported to be the first law of its kind in the nation. The bill received nearly unanimous support in the legislature; it was approved by votes of 132-1 in the House and 65-0 in the Senate.

> *"Using technology to create fake, non-consensual intimate images is unacceptable."*
> *– Minnesota Governor Tim Walz*

Although the statute does not specifically mention artificial intelligence, one of the bill's champions in the state senate, Senator Erin Maye Quade, stated that the law is aimed at "AI nudification technology in order to protect Minnesotans from image-based sexual abuse." In addition, Governor Tim Walz said in a media release, "This bill makes clear that using technology to create fake, non-consensual intimate images is unacceptable and puts Minnesota at the forefront of addressing the harms of AI while protecting people from exploitation and abuse." While proponents of the law refer to image generation of a nonconsensual manner, the text of the statute does not contain any form of the words "consent" or "permission" (or requirements for the lack of them).

In some ways, the Minnesota law is similar to other state and federal efforts to rein in the use of AI to generate nonconsensual "intimate deepfakes," such as the federal "TAKE IT DOWN Act" (Public Law 119-12, codified at 47 U.S.C. § 223). However, unlike the TAKE IT DOWN Act and other enacted and pending legislation addressing this topic, Section 325E penalizes platform operators and not only the creators of the offending content. It also contains provisions allowing victims to sue the tech platforms for damages.

Section 325E prohibits persons who own or control a website, application, software, program, or other service from nudifying an image or video on behalf of a user, or allowing users to engage in nudification via the service. "Nudification" is described by the law as the process by which an image or video is altered or generated to depict an "intimate part" not depicted in an original unaltered image or video of an identifiable individual. The term covers altered or generated images or videos that are "so realistic that a reasonable person would believe that the intimate part belongs to the identifiable individual." The statute references Minnesota Statutes Section 609.341, subdivision 5, which defines "intimate parts" as the primary genital area, groin, inner thigh, buttocks, or breast of a human being. The law prohibits advertising or promotion of offending services. Service

©2026 CCH Incorporated and its affiliates. All rights reserved. Reprinted with permission from CCH Incorporated.

owners and operators are exempted from liability when the service "requires the technical skill of a user to nudify an image or video."

> *"Confronted with $500,000-per-image strict liability and no safe harbor, xAI has no practical choice but to restrict Grok Imagine's image-editing features." – xAI's complaint*

Individuals who are the subject of prohibited images or videos can bring civil lawsuits against violators for monetary damages, including compensatory and punitive damages, injunctive relief, and attorney fees. The statute also provides for attorney general enforcement, with civil penalties of up to $500,000 per violation. The law explicitly does not affect the immunity provisions of Communications Decency Act Section 230.

XAI's complaint. The complaint asserts that the new Minnesota law "imposes an overbroad, content-based ban on free speech and the tools of visual expression in a clumsy attempt to prohibit 'nudification.'" According to xAI, the company strictly prohibits users from generating nonconsensual nude or sexualized images of people and has filed suit against users who bypass the platform's "extensive technological blockers" to do so. The complaint says that xAI does not dispute that Minnesota has an interest in prohibiting the distribution of AI-generated intimate deepfakes, but it alleges that "the statute Minnesota enacted extends far beyond that goal, exposing a wide array of protected speech to civil liability and government sanctions."

The complaint criticizes the statute's lack of a knowledge or intent requirement, contending that it "is a strict-liability statute keyed solely to whether a user succeeded in creating a covered image using the AI provider's platform," regardless of any efforts the platform operator has taken to prevent users from doing so. "There is no safe harbor for good-faith efforts of the provider of general-purpose AI creative tools to avoid harms," xAI states.

The lawsuit asserts that the law is overbroad and extends to images that have "artistic, scientific, political, satirical, educational, medical, or religious value." According to xAI, the definition of "intimate part" is "exceptionally broad," noting that the sex crimes law from which Section 325E borrowed the definition is aimed at nonconsensual touching and therefore includes body parts that would not be considered visually explicit. "[The law] accordingly bans ordinary depictions of men without shirts, people in shorts or swimsuits, and other body parts routinely displayed in public—far beyond what an ordinary person would consider 'nudification,'" xAI alleges.

The complaint invokes the First Amendment, arguing that the law violates free speech protections by being content-based and "vastly overinclusive." According to xAI, the law is not limited to nonconsensual image generation and would even reach images created by the subject individual, as well as images that are not disseminated online. XAI also contends that less restrictive alternative means of addressing the targeted conduct already exist. "Minnesota law and the federal TAKE IT DOWN Act already prohibit and provide remedies for the knowing, nonconsensual dissemination of deepfakes depicting genitals, the pubic area, anus, or exposed nipples without sweeping in ordinary AI-assisted editing of everyday body parts," states the complaint.

The complaint notes that along with a general-purpose large language model, xAI's Grok family contains a model for generation of images and video, called Grok Imagine. "Confronted with $500,000-per-image strict liability and no safe harbor, xAI has no practical choice but to restrict Grok Imagine's image-editing features in various ways when the statute takes effect on August 1, 2026," the company says. "Protected speech freely available before the law takes effect will thus be chilled."

XAI is seeking a declaration that the law is unconstitutional. It requests preliminary and permanent injunctions barring its enforcement.

Reactions. The legislation's primary drafter, Representative Jess Hanson, issued a harshly worded statement about the lawsuit. "It's absolutely disgusting that Elon Musk and his xAI are fighting a law designed to protect children from sexual exploitation," Hanson said. "Nudification is simply an indefensible tool of AI. As the use of AI continues to grow, so does its potential harms, with nudification features being among the most urgent to address—and that's exactly why we banned them in Minnesota."

Governor Walz posted a brief comment on X in reaction to the suit: "See you in court, creep."

©2026 CCH Incorporated and its affiliates. All rights reserved. Reprinted with permission from CCH Incorporated.