

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged:	Originating Application - Form 15 - Rule 8.01(1)
Court of Filing:	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	22/04/2024 4:25:59 PM AEST
Date Accepted for Filing:	22/04/2024 5:08:59 PM AEST
File Number:	NSD474/2024
File Title:	ESAFETY COMMISSIONER v X CORP.
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised

Matter is listed for an interlocutory hearing before Justice Kennett on Monday, 22 April 2024 at 5:30PM.



A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Form 15
Rules 8.01(1); 8.04(1)

Originating application

No. NSD of 2024

Federal Court of Australia
District Registry: New South Wales
Division: General

ESAFETY COMMISSIONER

Applicant

X CORP.

Respondent

To the Respondent

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing:

Place: Law Courts Building, 184 Phillip St, Queens Square, Sydney, NSW

.....
Signed by an officer acting with the authority
of the District Registrar



Details of claim

On the grounds stated in the statement of claim, accompanying affidavit or other document prescribed by the Rules, the Applicant claims:

1. A declaration under s 21 of the *Federal Court of Australia Act 1976* (Cth) that the respondent has failed to comply with a requirement under a removal notice given under s 109 of the *Online Safety Act 2021* (Cth) on 16 April 2024 (**Notice**) to the extent that the respondent is capable of doing so by merely geo-blocking access by users in Australia to the material identified in the Notice.
2. An order under s 82 of the *Regulatory Powers (Standard Provisions) Act 2014* (Cth) that, within 30 days of the date of this order, X Corp. pay to the Commonwealth of Australia such pecuniary penalties as the Court determines appropriate in respect of the continuing contraventions of s 109 of the *Online Safety Act 2021* (Cth).
3. An order under s 121(2) of the *Regulatory Powers (Standard Provisions) Act 2014* (Cth) requiring the respondent to do the following:
 - (a) remove (in the ordinary sense of the word rather than the meaning in s 12 of the *Online Safety Act 2021* (Cth)) the material identified in the Notice from the respondent's X service (previously known as Twitter);
 - (b) alternatively, restrict the discoverability of the material identified in the Notice to the author's profile so that only the author, and no other end-user, can view the material;
 - (c) alternatively, hide the material identified in the Notice behind a notice such that an X user can only see the notice, not the material identified in the Notice, and cannot remove the notice to reveal the material or
 - (d) alternatively, restrict the discoverability of the material to prevent the material identified in the Notice from appearing in any search results or any X feed on the X service.
4. Costs.
5. Such further or other order as the Court considers appropriate.



Claim for interlocutory relief

The Applicant also claims interlocutory relief.

1. An interim injunction under s 122(1)(b) requiring the respondent, as soon as reasonably practicable and no later than within 24 hours, to:
 - (a) restrict the discoverability of the material identified in the Notice to the author's profile so that only the author, and no other end-user, can view the material;
 - (b) hide the material identified in the Notice behind a notice such that an X user can only see the notice, not the material identified in the Notice, and cannot remove the notice to reveal the material;
 - (c) alternatively, if the Respondent establishes that neither of the above is feasible, then restrict the discoverability of the material identified in the Notice to the author's profile and behind a notice so that end-users can only access the material via the author's profile and after viewing the notice; or
 - (d) alternatively, restrict the discoverability of the material to prevent the material identified in the Notice from appearing in any search results or any X feed on the X service.

2. Costs.

Applicant's address

The Applicant's address for service is:

Place: Australian Government Solicitor,
Level 10, 60 Martin Place, Sydney, NSW 2000

Email: Matthew.Garey@ags.gov.au



Service on the Respondent

It is intended to serve this application on the Respondent.

Date: 22 April 2024

A handwritten signature in blue ink, appearing to read "M. Garey".

Signed by Matthew Garey
AGS lawyer
For and on behalf of the Australian Government Solicitor
Lawyer for the Applicant