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9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11 **SAN FRANCISCO DIVISION**

12  
13 SARAH ANDERSEN, et al.,

14 Individual and Representative Plaintiffs,

15 v.

16 STABILITY AI LTD., et al.,

17 Defendants.  
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CASE NO. 3:23-cv-00201-WHO

**DEFENDANT DEVIANTART, INC.’S  
ANSWER TO SECOND AMENDED  
COMPLAINT**

1 Defendant DeviantArt, Inc. (“Defendant”), by and through its undersigned counsel, hereby  
2 answers the Second Amended Complaint filed by Plaintiffs Sarah Andersen, Kelly McKernan,  
3 Karla Ortiz, H. Southworth pka Hawke Southworth, Grzegorz Rutkowski, Gregory Manchess,  
4 Gerald Brom, Jingna Zhang, Julia Kaye, and Adam Ellis (“Plaintiffs”). To the extent not  
5 specifically admitted herein, the allegations of the Second Amended Complaint are denied.

6 **I. AI IMAGE PRODUCTS ARE TRAINED ON VAST NUMBERS OF**  
7 **COPYRIGHTED IMAGES WITHOUT CONSENT, CREDIT, OR COMPENSATION**  
8 **AND VIOLATE THE RIGHTS OF MILLIONS OF ARTISTS<sup>1</sup>**

9 1. Defendant admits that the Second Amended Complaint refers to a software product  
10 designed to output images through artificial intelligence techniques as an “AI image product.”  
11 Defendant lacks knowledge or information sufficient to form a belief as to the manner in which  
12 the “AI image products at issue in this complaint” were “built,” and on that basis denies all related  
13 allegations. Defendant denies the remaining allegations in this paragraph.

14 2. Defendant admits that AI image products are often powered by one or more  
15 “machine learning models,” also referred to as “models,” and that models may be “trained” using  
16 a “dataset.” Defendant admits that in the Second Amended Complaint, each image caption pair is  
17 called a “training image.” Defendant lacks knowledge or information sufficient to form a belief  
18 as to manner in which the “models at issue in this complaint were trained” and on that basis denies  
19 all related allegations. Defendant denies any remaining allegations in this paragraph.

20 3. Defendant admits that users can elicit images from AI image products through  
21 image and text-based “prompting.” Defendant admits that CLIP models can generate CLIP  
22 embeddings, which are low-dimensional numerical representations that can be used to compare  
23 images and text. Defendant lacks knowledge or information sufficient to form a belief as to the  
24 truth of the remaining allegations in this paragraph, and on that basis denies them.

25 4. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
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27 <sup>1</sup> The various headings and subheadings of the Second Amended Complaint are not allegations  
28 and thus do not require a response. Defendant reproduces them in this Answer solely for  
convenience. To the extent a response is required, Defendant denies any allegations contained in  
the headings and subheadings of the Second Amended Complaint.

1 of the allegations in this paragraph, and on that basis denies them.

2 5. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
3 of the allegations in this paragraph, and on that basis denies them.

4 6. Defendant admits that its subscription-based AI image product deployed Stable  
5 Diffusion. To the extent the allegations in this paragraph contain legal conclusions, no response  
6 is required. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
7 of the remaining allegations in this paragraph, and on that basis denies them.

8 7. Denied.

9 8. Defendant denies that it holds out its “AI image products as being able to create  
10 substantially similar substitutes for the works they were trained on—either specific training  
11 images, or images that imitate the trade dress of particular artists—including Plaintiffs.”  
12 Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
13 remaining allegations in this paragraph, and on that basis denies them.

14 9. Denied.

15 10. Denied.

16 **II. JURISDICTION AND VENUE**

17 11. For purposes of this action, Defendant does not contest subject matter jurisdiction.  
18 This paragraph otherwise contains legal conclusions to which no response is required.

19 12. For purposes of this action, Defendant does not contest venue. Defendant lacks  
20 knowledge or information sufficient to form a belief as to the truth of the allegations in this  
21 paragraph about co-defendant(s), and on that basis denies them. The remaining allegations in this  
22 paragraph contain legal conclusions to which no response is required.

23 13. For purposes of this action, Defendant does not contest the assignment. Defendant  
24 lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this  
25 paragraph about co-defendant(s), and on that basis denies them. The remaining allegations in this  
26 paragraph contain legal conclusions to which no response is required.

27 **III. PLAINTIFFS**

28 14. Defendant lacks knowledge or information sufficient to form a belief as to the truth

1 of the allegations in this paragraph, and on that basis denies them.

2 15. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
3 of the allegations in this paragraph, and on that basis denies them.

4 16. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
5 of the allegations in this paragraph, and on that basis denies them.

6 17. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
7 of the allegations in this paragraph, and on that basis denies them.

8 18. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
9 of the allegations in this paragraph, and on that basis denies them.

10 19. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
11 of the allegations in this paragraph, and on that basis denies them.

12 20. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
13 of the allegations in this paragraph, and on that basis denies them.

14 21. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
15 of the allegations in this paragraph, and on that basis denies them.

16 22. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
17 of the allegations in this paragraph, and on that basis denies them.

18 23. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
19 of the allegations in this paragraph, and on that basis denies them.

20 24. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
21 of the allegations in this paragraph, and on that basis denies them.

22 25. To the extent the allegations in this paragraph contain legal conclusions, no  
23 response is required. To the extent a response is required, Defendant lacks knowledge or  
24 information sufficient to form a belief as to the truth of the allegations in this paragraph, and on  
25 that basis denies them.

26 26. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
27 of the allegations in this paragraph, and on that basis denies them.

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**IV. DEFENDANTS**

27. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and on that basis denies them.

28. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and on that basis denies them.

29. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and on that basis denies them.

30. Admit

31. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and on that basis denies them.

**V. AGENTS AND CO-CONSPIRATORS**

32. The allegations in this paragraph contain legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations.

33. The allegations in this paragraph contain legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations.

**VI. CLASS ALLEGATIONS**

**A. Class Definitions**

34. Denied.

35. Defendant denies claims regarding class definitions. The allegations in this paragraph also contain legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations, and on that basis denies them.

**B. Numerosity**

36. The allegations in this paragraph contain legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations.

**C. Typicality**

37. The allegations in this paragraph contain legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations.

1 **D. Commonality & Predominance**

2 38. The allegations in this paragraph contain legal conclusions to which no response is  
3 required. To the extent a response is required, Defendant denies the allegations.

4 39. The allegations in this paragraph contain legal conclusions to which no response is  
5 required. To the extent a response is required, Defendant denies the allegations.

6 40. The allegations in this paragraph contain legal conclusions to which no response is  
7 required. To the extent a response is required, Defendant denies the allegations.

8 41. The allegations in this paragraph contain legal conclusions to which no response is  
9 required. To the extent a response is required, Defendant denies the allegations.

10 42. The allegations in this paragraph contain legal conclusions to which no response is  
11 required. To the extent a response is required, Defendant denies the allegations.

12 43. The allegations in this paragraph contain legal conclusions to which no response is  
13 required. To the extent a response is required, Defendant denies the allegations.

14 44. The allegations in this paragraph contain legal conclusions to which no response is  
15 required. To the extent a response is required, Defendant denies the allegations.

16 **E. Adequacy**

17 45. The allegations in this paragraph contain legal conclusions to which no response is  
18 required. To the extent a response is required, Defendant denies the allegations.

19 **F. Other Class Considerations**

20 46. The allegations in this paragraph contain legal conclusions to which no response is  
21 required. To the extent a response is required, Defendant denies the allegations.

22 47. The allegations in this paragraph contain legal conclusions to which no response is  
23 required. To the extent a response is required, Defendant denies the allegations.

24 48. The allegations in this paragraph contain legal conclusions to which no response is  
25 required. To the extent a response is required, Defendant denies the allegations.

26 **VII. ARTISTS AND THEIR WORKS**

27 49. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
28 of the allegations in this paragraph, and on that basis denies them.

1 50. Defendant admits that creating artwork often requires dedication, energy, and  
2 creativity. Defendant lacks knowledge or information sufficient to form a belief as to the truth of  
3 the allegations in this paragraph, and on that basis denies them. To the extent the allegations  
4 require a legal conclusion, no response is required.

5 51. Defendant admits that the quoted language appears in the United States  
6 Constitution. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
7 of the allegations in this paragraph regarding Plaintiffs' registration of their works, and on that  
8 basis denies them. The remaining allegations in this paragraph contain legal conclusions to which  
9 no response is required.

10 52. Defendant admits that some artists affix watermarks or other identifying marks to  
11 their works. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
12 of the allegations in this paragraph, and on that basis denies them.

13 53. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
14 of the allegations in this paragraph, and on that basis denies them.

15 54. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
16 of the allegations in this paragraph, and on that basis denies them. To the extent a response is  
17 required, Defendant denies the allegations.

18 55. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
19 of the remaining allegations in this paragraph, and on that basis denies them.

20 56. Denied

21 **VIII. THE SOURCE OF THE TRAINING DATASETS: LAION**

22 57. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
23 of the allegations in this paragraph, and on that basis denies them.

24 58. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
25 of the allegations in this paragraph, and on that basis denies them.

26 59. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
27 of the allegations in this paragraph, and on that basis denies them.

28 60. Defendant lacks knowledge or information sufficient to form a belief as to the truth

1 of the allegations in this paragraph, and on that basis denies them.

2 61. Defendant admits that a software tool called “img2dataset” allows a user to turn  
3 image URLs into an image dataset. Defendant lacks knowledge or information sufficient to form  
4 a belief as to the truth of the remaining allegations in this paragraph, and on that basis denies them.

5 62. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
6 of the allegations in this paragraph, and on that basis denies them.

7 63. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
8 of the allegations in this paragraph, and on that basis denies them.

9 64. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
10 of the allegations in this paragraph, and on that basis denies them.

11 65. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
12 of the allegations in this paragraph, and on that basis denies them.

13 66. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
14 of the allegations in this paragraph, and on that basis denies them.

15 67. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
16 of the allegations in this paragraph, and on that basis denies them.

17 68. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
18 of the allegations in this paragraph, and on that basis denies them.

19 69. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
20 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
21 this paragraph purport to summarize or characterize or are inconsistent with the full text  
22 referenced, Defendant denies the allegations.

23 70. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
24 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
25 this paragraph purport to summarize or characterize or are inconsistent with the full text  
26 referenced, Defendant denies the allegations.

27 71. To the extent the allegations in this paragraph purport to summarize or characterize  
28 or are inconsistent with the full text, Defendant denies the allegations. Defendant admits that it



1 deployed Stable Diffusion. Defendant lacks knowledge or information sufficient to form a belief  
2 as to the truth of the remaining allegations in this paragraph, and on that basis denies them.

3 72. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
4 of the allegations in this paragraph, and on that basis denies them.

5 73. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
6 of the allegations in this paragraph, and on that basis denies them.

7 74. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
8 of the allegations in this paragraph, and on that basis denies them.

9 75. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
10 of the allegations in this paragraph, and on that basis denies them.

11 76. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
12 of the allegations in this paragraph, and on that basis denies them.

13 77. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
14 of the allegations in this paragraph, and on that basis denies them.

15 78. To the extent the allegations in this paragraph contain legal conclusions, no  
16 response is required. Defendant lacks knowledge or information sufficient to form a belief as to  
17 the truth of the remaining allegations in this paragraph, and on that basis denies them.

18 79. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
19 of the allegations in this paragraph, and on that basis denies them.

20 80. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
21 of the allegations in this paragraph, and on that basis denies them.

22 81. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
23 of the allegations in this paragraph, and on that basis denies them.

24 **IX. HOW AI IMAGE PRODUCTS WORK: CLIP-GUIDED DIFFUSION**

25 82. Defendant admits that this description is generally consistent with its understanding  
26 of CLIP-guided diffusion, though these highly general allegations do not appear to be directed at  
27 any particular product, and Defendant lacks knowledge or information sufficient to form a belief  
28 with respect to whether this description is uniformly true.

1           83. Defendant admits that it deployed Stable Diffusion. Defendant lacks knowledge or  
2 information sufficient to form a belief as to the truth of the remaining allegations in this paragraph,  
3 and on that basis denies them.

4           84. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
5 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
6 this paragraph purport to summarize or characterize or are inconsistent with the full text  
7 referenced, Defendant denies the allegations.

8           85. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
9 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
10 this paragraph purport to summarize or characterize or are inconsistent with the full text  
11 referenced, Defendant denies the allegations.

12           86. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
13 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
14 this paragraph purport to summarize or characterize or are inconsistent with the full text  
15 referenced, Defendant denies the allegations.

16           87. To the extent the allegations in this paragraph contain legal conclusions, no  
17 response is required. Defendant lacks knowledge or information sufficient to form a belief as to  
18 the truth of the allegations in this paragraph, and on that basis denies them. To the extent the  
19 allegations in this paragraph purport to summarize or characterize or are inconsistent with the full  
20 text referenced, Defendant denies the allegations.

21           88. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
22 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
23 this paragraph purport to summarize or characterize or are inconsistent with the full text  
24 referenced, Defendant denies the allegations.

25           89. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
26 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
27 this paragraph purport to summarize or characterize or are inconsistent with the full text  
28 referenced, Defendant denies the allegations.

1           90. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
2 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
3 this paragraph purport to summarize or characterize or are inconsistent with the full text  
4 referenced, Defendant denies the allegations.

5           91. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
6 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
7 this paragraph purport to summarize or characterize or are inconsistent with the full text  
8 referenced, Defendant denies the allegations.

9           92. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
10 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
11 this paragraph purport to summarize or characterize or are inconsistent with the full text  
12 referenced, Defendant denies the allegations.

13           93. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
14 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
15 this paragraph purport to summarize or characterize or are inconsistent with the full text  
16 referenced, Defendant denies the allegations.

17           94. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
18 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
19 this paragraph purport to summarize or characterize or are inconsistent with the full text  
20 referenced, Defendant denies the allegations.

21           95. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
22 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
23 this paragraph purport to summarize or characterize or are inconsistent with the full text  
24 referenced, Defendant denies the allegations.

25           96. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
26 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
27 this paragraph purport to summarize or characterize or are inconsistent with the full text  
28 referenced, Defendant denies the allegations.

1           97. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
2 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
3 this paragraph purport to summarize or characterize or are inconsistent with the full text  
4 referenced, Defendant denies the allegations.

5           98. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
6 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
7 this paragraph purport to summarize or characterize or are inconsistent with the full text  
8 referenced, Defendant denies the allegations.

9           99. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
10 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
11 this paragraph purport to summarize or characterize or are inconsistent with the full text  
12 referenced, Defendant denies the allegations.

13           100. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
14 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
15 this paragraph purport to summarize or characterize or are inconsistent with the full text  
16 referenced, Defendant denies the allegations.

17           101. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
18 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
19 this paragraph purport to summarize or characterize or are inconsistent with the full text  
20 referenced, Defendant denies the allegations.

21           102. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
22 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
23 this paragraph purport to summarize or characterize or are inconsistent with the full text  
24 referenced, Defendant denies the allegations.

25           103. Defendant admits that, to its understanding, some Stable Diffusion models employ  
26 CLIP. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
27 remaining allegations in this paragraph, and on that basis denies them.

28           104. Defendant admits that a CLIP model may quantify a correlation between images

1 and captions. However, this general allegation does not appear to be directed at any particular  
2 product, and Defendant lacks knowledge or information sufficient to form a belief with respect to  
3 whether this description is uniformly true. Defendant lacks knowledge or information sufficient  
4 to form a belief as to the truth of the remaining allegations in this paragraph, and on that basis  
5 denies them.

6 105. Defendant admits that “CLIP” stands for “contrastive language–image  
7 pretraining.” Defendant admits that a CLIP model can learn to correlate images and text by  
8 training on such material. However, these general allegations do not appear to be directed at any  
9 particular product, and Defendant lacks knowledge or information sufficient to form a belief with  
10 respect to whether this description is uniformly true. To the extent the allegations in this paragraph  
11 contain legal conclusions, no response is required. Defendant lacks knowledge or information  
12 sufficient to form a belief as to the truth of the remaining highly general allegations in this  
13 paragraph, which do not appear to be directed at any particular product, and on that basis denies  
14 them.

15 106. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
16 of the allegations in this paragraph, and on that basis denies them.

17 107. Defendant admits that a CLIP model can learn to correlate images and text by  
18 training on such material. However, this general allegation does not appear to be directed at any  
19 particular product, and Defendant lacks knowledge or information sufficient to form a belief with  
20 respect to whether this description is uniformly true. Defendant lacks knowledge or information  
21 sufficient to form a belief as to the truth of the remaining highly general allegations in this  
22 paragraph, which do not appear to be directed at any particular product, and on that basis denies  
23 them.

24 108. Defendant admits that a CLIP model can learn to correlate images and text by  
25 training on such material. However, this general allegation does not appear to be directed at any  
26 particular product, and Defendant lacks knowledge or information sufficient to form a belief with  
27 respect to whether this description is uniformly true. Defendant lacks knowledge or information  
28 sufficient to form a belief as to the truth of the remaining highly general allegations in this

1 paragraph, which do not appear to be directed at any particular product, and on that basis denies  
2 them.

3 109. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
4 of the highly general allegations in this paragraph, which do not appear to be directed at any  
5 particular product, and on that basis denies them.

6 110. Defendant admits that CLIP models can generate CLIP embeddings, which are  
7 numerical representations of an image or piece of text into a latent space. However, these general  
8 allegations do not appear to be directed at any particular product, and Defendant lacks knowledge  
9 or information sufficient to form a belief with respect to whether this description is uniformly true.  
10 Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
11 remaining highly general allegations in this paragraph, which do not appear to be directed at any  
12 particular product, and on that basis denies them.

13 111. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
14 of the highly general allegations in this paragraph, which do not appear to be directed at any  
15 particular product, and on that basis denies them.

16 112. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
17 of the highly general allegations in this paragraph, which do not appear to be directed at any  
18 particular product, and on that basis denies them. To the extent a response is required, Defendant  
19 denies the allegations.

20 113. Defendant admits that, to its understanding, Stable Diffusion employs CLIP.  
21 Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
22 remaining allegations in this paragraph, and on that basis denies them.

23 114. Defendant admits that CLIP embeddings can be generated from either text or an  
24 image. However, this general allegation does not appear to be directed at any particular product,  
25 and Defendant lacks knowledge or information sufficient to form a belief with respect to whether  
26 this description is uniformly true. Defendant lacks knowledge or information sufficient to form a  
27 belief as to the truth of the remaining highly general allegations in this paragraph, which do not  
28 appear to be directed at any particular product, and on that basis denies them.

1           115. Defendant admits that a CLIP model can learn to correlate images and text by  
2 training on such material. Defendant admits that CLIP models can generate CLIP embeddings,  
3 which are numerical representations of an image or piece of text into a latent space. However,  
4 these highly general allegations do not appear to be directed at any particular product, and  
5 Defendant lacks knowledge or information sufficient to form a belief with respect to whether this  
6 description is uniformly true. Defendant lacks knowledge or information sufficient to form a belief  
7 as to the truth of the remaining allegations—including because many of the allegations are highly  
8 general and do not appear to be directed at any particular product—and on that basis denies them.

9           **X. PROTECTED EXPRESSION FROM TRAINING IMAGES IS COPIED,**  
10           **COMPRESSED, STORED, AND INTERPOLATED BY DIFFUSION MODELS**

11           116. Defendant denies that the “primary objective of a diffusion model is to reconstruct  
12 copies of its training images with maximum accuracy and fidelity.” Defendant further denies that  
13 “a diffusion model is...able to reconstruct copies of each training image.” Defendant lacks  
14 knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
15 this paragraph, and on that basis denies them.

16           117. Defendant denies that a generative machine-learning model is a database or is  
17 analogous to a database. Defendant lacks knowledge or information sufficient to form a belief as  
18 to the truth of the allegations in this paragraph, and on that basis denies them. To the extent the  
19 allegations in this paragraph purport to summarize or characterize or are inconsistent with the full  
20 text referenced, Defendant denies the allegations.

21           118. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
22 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
23 this paragraph purport to summarize or characterize or are inconsistent with the full text  
24 referenced, Defendant denies the allegations.

25           119. Defendant denies that a generative machine-learning model is merely a way to  
26 compress data. Defendant lacks knowledge or information sufficient to form a belief as to the  
27 truth of the remaining allegations in this paragraph, and on that basis denies them. To the extent  
28 the allegations in this paragraph purport to summarize or characterize or are inconsistent with the

1 full text referenced, Defendant denies the allegations.

2 120. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
3 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
4 this paragraph purport to summarize or characterize or are inconsistent with the full text  
5 referenced, Defendant denies the allegations.

6 121. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
7 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
8 this paragraph purport to summarize or characterize or are inconsistent with the full text  
9 referenced, Defendant denies the allegations.

10 122. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
11 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
12 this paragraph purport to summarize or characterize or are inconsistent with the full text  
13 referenced, Defendant denies the allegations.

14 123. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
15 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
16 this paragraph purport to summarize or characterize or are inconsistent with the full text  
17 referenced, Defendant denies the allegations.

18 124. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
19 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
20 this paragraph purport to summarize or characterize or are inconsistent with the full text  
21 referenced, Defendant denies the allegations.

22 125. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
23 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
24 this paragraph purport to summarize or characterize or are inconsistent with the full text  
25 referenced, Defendant denies the allegations.

26 126. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
27 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
28 this paragraph purport to summarize or characterize or are inconsistent with the full text



1 referenced, Defendant denies the allegations.

2 127. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
3 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
4 this paragraph purport to summarize or characterize or are inconsistent with the full text  
5 referenced, Defendant denies the allegations.

6 128. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
7 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
8 this paragraph purport to summarize or characterize or are inconsistent with the full text  
9 referenced, Defendant denies the allegations.

10 129. Defendant denies that “diffusion models store copies of protected expression from  
11 their training images.” Defendant lacks knowledge or information sufficient to form a belief as to  
12 the truth of the remaining allegations in this paragraph, and on that basis denies them.

13 130. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
14 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
15 this paragraph purport to summarize or characterize or are inconsistent with the full text  
16 referenced, Defendant denies the allegations.

17 131. Defendant denies that the selectively-quoted language accurately reflects Carlini’s  
18 conclusions. To the extent the allegations in this paragraph purport to summarize or characterize  
19 or are inconsistent with the full text referenced, Defendant denies the allegations.

20 132. Defendant denies that the selectively-quoted language accurately reflects Carlini’s  
21 conclusions. To the extent the allegations in this paragraph purport to summarize or characterize  
22 or are inconsistent with the full text referenced, Defendant denies the allegations.

23 133. Defendant denies that the selectively-quoted language in the preceding paragraph  
24 accurately reflects Carlini’s conclusions. To the extent the allegations in this paragraph purport to  
25 summarize or characterize or are inconsistent with the full text referenced, Defendant denies the  
26 allegations.

27 134. Defendant denies that the selectively-quoted language accurately reflects Carlini’s  
28 conclusions. To the extent the allegations in this paragraph purport to summarize or characterize

1 or are inconsistent with the full text referenced, Defendant denies the allegations.

2 135. Defendant denies that the selectively-quoted language accurately reflects Carlini's  
3 conclusions. To the extent the allegations in this paragraph purport to summarize or characterize  
4 or are inconsistent with the full text referenced, Defendant denies the allegations. Defendant lacks  
5 knowledge or information sufficient to form a belief as to the truth of the remaining allegations in  
6 this paragraph, and on that basis denies them.

7 136. Defendant denies that the selectively-quoted language accurately reflects Carlini's  
8 conclusions. To the extent the allegations in this paragraph purport to summarize or characterize  
9 or are inconsistent with the full text referenced, Defendant denies the allegations.

10 137. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
11 of the allegations in this paragraph, and on that basis denies them.

12 138. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
13 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
14 this paragraph purport to summarize or characterize or are inconsistent with the full text  
15 referenced, Defendant denies the allegations.

16 139. Defendant denies that these allegations accurately reflect Carlini's conclusions. To  
17 the extent the allegations in this paragraph purport to summarize or characterize or are inconsistent  
18 with the full text referenced, Defendant denies the allegations. Defendant lacks knowledge or  
19 information sufficient to form a belief as to the truth of the remaining allegations in this paragraph,  
20 and on that basis denies them.

21 140. Defendant denies that these allegations accurately reflect Carlini's conclusions. To  
22 the extent the allegations in this paragraph purport to summarize or characterize or are inconsistent  
23 with the full text referenced, Defendant denies the allegations. Defendant lacks knowledge or  
24 information sufficient to form a belief as to the truth of the remaining allegations in this paragraph,  
25 and on that basis denies them.

26 141. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
27 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
28 this paragraph purport to summarize or characterize or are inconsistent with the full text

1 referenced, Defendant denies the allegations.

2 142. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
3 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
4 this paragraph purport to summarize or characterize or are inconsistent with the full text  
5 referenced, Defendant denies the allegations.

6 143. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
7 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
8 this paragraph purport to summarize or characterize or are inconsistent with the full text  
9 referenced, Defendant denies the allegations.

10 144. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
11 of the allegations in this paragraph, and on that basis denies them. To the extent a response is  
12 required, Defendant denies these allegations.

13 145. Defendant denies that Carlini’s paper shows that diffusion models—and Stable  
14 Diffusion in particular—has the ability to store copies of protected expression from training images  
15 and later regenerate it. To the extent the allegations in this paragraph purport to summarize or  
16 characterize or are inconsistent with the full text referenced, Defendant denies the allegations.

17 146. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
18 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
19 this paragraph purport to summarize or characterize or are inconsistent with the full text  
20 referenced, Defendant denies the allegations.

21 147. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
22 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
23 this paragraph purport to summarize or characterize or are inconsistent with the full text  
24 referenced, Defendant denies the allegations.

25 148. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
26 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
27 this paragraph contain legal conclusions, no response is required.

28 149. Defendant lacks knowledge or information sufficient to form a belief as to the truth

1 of the allegations in this paragraph, and on that basis denies them.

2 150. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
3 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
4 this paragraph purport to summarize or characterize or are inconsistent with the full text  
5 referenced, Defendant denies the allegations.

6 **XI. EXAMPLES OF TEXT PROMPTS USING PLAINTIFF NAMES IN AI IMAGE**  
7 **PRODUCTS OFFERED BY STABILITY, RUNWAY, AND MIDJOURNEY**

8 151. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
9 of the allegations in this paragraph, and on that basis denies them.

10 152. Defendant denies that it has taken any actions “to frustrate Plaintiffs’ investigation  
11 of the claims in this complaint.” Defendant lacks knowledge or information sufficient to form a  
12 belief as to the truth of the remaining allegations in this paragraph, and on that basis denies them.

13 153. Defendant admits that it can prohibit the use of certain words in prompts in  
14 DreamUp. To the extent the allegations in this paragraph contain legal conclusions, no response  
15 is required. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
16 of the remaining allegations in this paragraph, and on that basis denies them.

17 154. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
18 of the allegations in this paragraph, and on that basis denies them.

19 155. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
20 of the allegations in this paragraph, and on that basis denies them.

21 156. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
22 of the allegations in this paragraph, and on that basis denies them.

23 157. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
24 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
25 this paragraph purport to summarize or characterize or are inconsistent with the full text  
26 referenced, Defendant denies the allegations.

27 158. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
28 of the allegations in this paragraph, and on that basis denies them.

1           159. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
2 of the allegations in this paragraph, and on that basis denies them.

3           160. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
4 of the allegations in this paragraph, and on that basis denies them.

5           161. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
6 of the allegations in this paragraph, and on that basis denies them.

7           162. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
8 of the allegations in this paragraph, and on that basis denies them.

9           163. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
10 of the allegations in this paragraph, and on that basis denies them.

11           164. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
12 of the allegations in this paragraph, and on that basis denies them.

13           165. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
14 of the allegations in this paragraph, and on that basis denies them.

15           166. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
16 of the allegations in this paragraph, and on that basis denies them.

17           167. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
18 of the allegations in this paragraph, and on that basis denies them.

19           168. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
20 of the allegations in this paragraph, and on that basis denies them.

21           169. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
22 of the allegations in this paragraph, and on that basis denies them.

23           170. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
24 of the allegations in this paragraph, and on that basis denies them.

25           171. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
26 of the allegations in this paragraph, and on that basis denies them.

27           172. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
28 of the allegations in this paragraph, and on that basis denies them.

1 173. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
2 of the allegations in this paragraph, and on that basis denies them.

3 174. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
4 of the allegations in this paragraph, and on that basis denies them.

5 175. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
6 of the allegations in this paragraph, and on that basis denies them.

7 176. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
8 of the allegations in this paragraph, and on that basis denies them.

9 **XII. EXAMPLES OF IMAGE PROMPTS USING PLAINTIFF IMAGES IN AI IMAGE**  
10 **PRODUCTS OFFRED BY STABILITY, RUNWAY, AND MIDJOURNEY**

11 177. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
12 of the allegations in this paragraph, and on that basis denies them.

13 178. Defendant admits that, to its understanding, some Stable Diffusion models employ  
14 CLIP. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
15 remaining allegations in this paragraph, and on that basis denies them.

16 179. Defendant admits that a CLIP model can produce a CLIP embedding from an  
17 image. However, this general allegation does not appear to be directed at any particular product,  
18 and Defendant lacks knowledge or information sufficient to form a belief with respect to whether  
19 this description is uniformly true. Defendant lacks knowledge or information sufficient to form a  
20 belief as to the truth of the remaining allegations in this paragraph, and on that basis denies them.

21 180. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
22 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
23 this paragraph purport to summarize or characterize or are inconsistent with the full text  
24 referenced, Defendant denies the allegations.

25 181. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
26 of the allegations in this paragraph, and on that basis denies them. To the extent the allegations in  
27 this paragraph purport to summarize or characterize or are inconsistent with the full text  
28 referenced, Defendant denies the allegations.

1 182. Defendant denies that these allegations accurately reflect Carlini’s conclusions. To  
2 the extent the allegations in this paragraph purport to summarize or characterize or are inconsistent  
3 with the full text referenced, Defendant denies the allegations.

4 183. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
5 of the allegations in this paragraph, and on that basis denies them.

6 184. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
7 of the allegations in this paragraph, and on that basis denies them.

8 185. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
9 of the allegations in this paragraph, and on that basis denies them.

10 186. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
11 of the allegations in this paragraph, and on that basis denies them.

12 187. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
13 of the allegations in this paragraph, and on that basis denies them.

14 188. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
15 of the allegations in this paragraph, and on that basis denies them.

16 189. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
17 of the allegations in this paragraph, and on that basis denies them.

18 190. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
19 of the allegations in this paragraph, and on that basis denies them.

20 191. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
21 of the allegations in this paragraph, and on that basis denies them.

22 192. To the extent the allegations in this paragraph contain legal conclusions, no  
23 response is required. To the extent a response is required, Defendant denies the allegations.

24 193. To the extent the allegations in this paragraph contain legal conclusions, no  
25 response is required. To the extent a response is required, Defendant denies the allegations.

26 194. To the extent the allegations in this paragraph contain legal conclusions, no  
27 response is required. To the extent a response is required, Defendant denies the allegations.

28 195. To the extent the allegations in this paragraph contain legal conclusions, no

1 response is required. Defendant lacks knowledge or information sufficient to form a belief as to  
2 the truth of the allegations in this paragraph, and on that basis denies them.

3 196. To the extent the allegations in this paragraph contain legal conclusions, no  
4 response is required. Defendant lacks knowledge or information sufficient to form a belief as to  
5 the truth of the allegations in this paragraph, and on that basis denies them.

6 197. To the extent the allegations in this paragraph contain legal conclusions, no  
7 response is required. Defendant lacks knowledge or information sufficient to form a belief as to  
8 the truth of the allegations in this paragraph, and on that basis denies them.

9 198. To the extent the allegations in this paragraph contain legal conclusions, no  
10 response is required. Defendant lacks knowledge or information sufficient to form a belief as to  
11 the truth of the allegations in this paragraph, and on that basis denies them.

12 199. To the extent the allegations in this paragraph contain legal conclusions, no  
13 response is required. Defendant lacks knowledge or information sufficient to form a belief as to  
14 the truth of the allegations in this paragraph, and on that basis denies them.

15 200. To the extent the allegations in this paragraph contain legal conclusions, no  
16 response is required. Defendant lacks knowledge or information sufficient to form a belief as to  
17 the truth of the allegations in this paragraph, and on that basis denies them.

18 **XIII. USER AND LICENSEE ACTIVITY**

19 201. Defendant denies that it provides any “assistance” to “users and licensees” to “track  
20 and update the specific artists (including Plaintiffs) which the AI image products are able to mimic  
21 or imitate.” Defendant lacks knowledge or information sufficient to form a belief as to the truth  
22 of the remaining allegations in this paragraph, and on that basis denies them.

23 202. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
24 of the allegations in this paragraph, and on that basis denies them.

25 203. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
26 of the allegations in this paragraph, and on that basis denies them.

27 204. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
28 of the allegations in this paragraph, and on that basis denies them.







1           223. This paragraph relates to a claim not made against Defendant and thus no response  
2 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
3 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
4 belief as to the truth of the remaining allegations in this paragraph.

5           224. This paragraph relates to a claim not made against Defendant and thus no response  
6 by Defendant is required. To the extent a response is required, Defendant lacks knowledge or  
7 information sufficient to form a belief as to the truth of the allegations in this paragraph.

8           225. This paragraph relates to a claim not made against Defendant and thus no response  
9 by Defendant is required. To the extent a response is required, Defendant lacks knowledge or  
10 information sufficient to form a belief as to the truth of the allegations in this paragraph and on  
11 that basis denies them.

12           226. This paragraph relates to a claim not made against Defendant and thus no response  
13 by Defendant is required. To the extent a response is required, Defendant lacks knowledge or  
14 information sufficient to form a belief as to the truth of the allegations in this paragraph.

15           227. This paragraph relates to a claim not made against Defendant and thus no response  
16 by Defendant is required. To the extent a response is required, Defendant lacks knowledge or  
17 information sufficient to form a belief as to the truth of the allegations in this paragraph.

18           228. This paragraph relates to a claim not made against Defendant and thus no response  
19 by Defendant is required. To the extent a response is required, Defendant lacks knowledge or  
20 information sufficient to form a belief as to the truth of the allegations in this paragraph.

21           229. This paragraph relates to a claim not made against Defendant and thus no response  
22 by Defendant is required. To the extent a response is required, Defendant lacks knowledge or  
23 information sufficient to form a belief as to the truth of the allegations in this paragraph.

24           230. This paragraph relates to a claim not made against Defendant and thus no response  
25 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
26 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
27 belief as to the truth of the remaining allegations in this paragraph.

28           231. This paragraph relates to a claim not made against Defendant and thus no response

1 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
2 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
3 belief as to the truth of the remaining allegations in this paragraph.

4 **COUNT TWO**

5 **Inducement of copyright infringement by distributing Stable Diffusion 2.0 and Stable**  
6 **Diffusion XL 1.0 for free against Stability on behalf of the LAION-5B Registered Plaintiffs**  
7 **and Damages Subclass**

8 232. This paragraph relates to a claim not made against Defendant and thus no response  
9 by Defendant is required. To the extent a response is required, Defendant incorporates by  
10 reference its responses to all allegations set forth in paragraphs 1–231 as if fully set forth herein.

11 233. This paragraph relates to a claim not made against Defendant and thus no response  
12 by Defendant is required. To the extent a response is required, Defendant lacks knowledge or  
13 information sufficient to form a belief as to the truth of the allegations in this paragraph.

14 234. This paragraph relates to a claim not made against Defendant and thus no response  
15 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
16 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
17 belief as to the truth of the remaining allegations in this paragraph.

18 235. This paragraph relates to a claim not made against Defendant and thus no response  
19 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
20 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
21 belief as to the truth of the remaining allegations in this paragraph.

22 236. This paragraph relates to a claim not made against Defendant and thus no response  
23 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
24 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
25 belief as to the truth of the remaining allegations in this paragraph.

26 237. This paragraph relates to a claim not made against Defendant and thus no response  
27 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
28 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
belief as to the truth of the remaining allegations in this paragraph.

**COUNT THREE**

**DMCA violations by removing and altering CMI of training images against Stability on behalf of all Plaintiffs, the Damages and the Injunctive Classes**

238. This paragraph relates to a claim not made against Defendant and thus no response by Defendant is required. To the extent a response is required, Defendant incorporates by reference its responses to all allegations set forth in paragraphs 1–237 as if fully set forth herein.

239. This paragraph relates to a claim not made against Defendant and thus no response by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions to which no response is required. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

240. This paragraph relates to a claim not made against Defendant and thus no response by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions to which no response is required. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

241. This paragraph relates to a claim not made against Defendant and thus no response by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions to which no response is required. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

242. This paragraph relates to a claim not made against Defendant and thus no response by Defendant is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

243. This paragraph relates to a claim not made against Defendant and thus no response by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions to which no response is required. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

244. This paragraph relates to a claim not made against Defendant and thus no response by Defendant is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and on

1 that basis denies them.

2 245. This paragraph relates to a claim not made against Defendant and thus no response  
3 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
4 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
5 belief as to the truth of the remaining allegations in this paragraph.

6 246. This paragraph relates to a claim not made against Defendant and thus no response  
7 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
8 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
9 belief as to the truth of the remaining allegations in this paragraph.

10 247. This paragraph relates to a claim not made against Defendant and thus no response  
11 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
12 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
13 belief as to the truth of the remaining allegations in this paragraph.

14 248. This paragraph relates to a claim not made against Defendant and thus no response  
15 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
16 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
17 belief as to the truth of the remaining allegations in this paragraph.

18 249. This paragraph relates to a claim not made against Defendant and thus no response  
19 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
20 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
21 belief as to the truth of the remaining allegations in this paragraph.

22 250. This paragraph relates to a claim not made against Defendant and thus no response  
23 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
24 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
25 belief as to the truth of the remaining allegations in this paragraph.

26 **XVI. CAUSES OF ACTION AGAINST MIDJOURNEY**

27 251. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
28 of the allegations in this paragraph and on that basis denies them.

1           252. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
2 of the allegations in this paragraph and on that basis denies them.

3           253. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
4 of the allegations in this paragraph and on that basis denies them.

5           254. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
6 of the allegations in this paragraph and on that basis denies them.

7           255. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
8 of the allegations in this paragraph and on that basis denies them.

9           256. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
10 of the allegations in this paragraph and on that basis denies them.

11           257. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
12 of the allegations in this paragraph and on that basis denies them.

13           258. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
14 of the allegations in this paragraph and on that basis denies them.

15           259. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
16 of the allegations in this paragraph and on that basis denies them.

17           260. The allegations in this paragraph contain legal conclusions to which no response is  
18 required. Defendant lacks knowledge or information sufficient to form a belief as to the truth of  
19 the remaining allegations in this paragraph.

20           261. The allegations in this paragraph contain legal conclusions to which no response is  
21 required.

22           262. The allegations in this paragraph contain legal conclusions to which no response is  
23 required. Defendant lacks knowledge or information sufficient to form a belief as to the truth of  
24 the remaining allegations in this paragraph.

25           263. The allegations in this paragraph contain legal conclusions to which no response is  
26 required. Defendant lacks knowledge or information sufficient to form a belief as to the truth of  
27 the remaining allegations in this paragraph.

28           264. The allegations in this paragraph contain legal conclusions to which no response is



1 required. Defendant lacks knowledge or information sufficient to form a belief as to the truth of  
2 the remaining allegations in this paragraph.

3 265. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
4 of the allegations in this paragraph and on that basis denies them.

5 266. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
6 of the allegations in this paragraph and on that basis denies them.

7 267. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
8 of the allegations in this paragraph and on that basis denies them.

9 268. The allegations in this paragraph contain legal conclusions to which no response is  
10 required. Defendant lacks knowledge or information sufficient to form a belief as to the truth of  
11 the remaining allegations in this paragraph.

12 269. The allegations in this paragraph contain legal conclusions to which no response is  
13 required. Defendant lacks knowledge or information sufficient to form a belief as to the truth of  
14 the remaining allegations in this paragraph.

15 270. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
16 of the allegations in this paragraph and on that basis denies them.

17 **COUNT FOUR**

18 **Direct copyright infringement of the LAION-400M Registered Works by training the**  
19 **Midjourney 400M Models, including Midjourney Model version 1 against Midjourney on**  
20 **behalf of the LAION-400M Registered Plaintiffs and Damages Subclass**

21 271. This paragraph relates to a claim not made against Defendant and thus no response  
22 by Defendant is required, Defendant incorporates by reference its responses to all allegations set  
23 forth in paragraphs 1–270 as if fully set forth herein.

24 272. This paragraph relates to a claim not made against Defendant and thus no response  
25 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
26 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
27 belief as to the truth of the remaining allegations in this paragraph.

28 273. This paragraph relates to a claim not made against Defendant and thus no response  
by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions



1 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
2 belief as to the truth of the remaining allegations in this paragraph.

3 274. This paragraph relates to a claim not made against Defendant and thus no response  
4 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
5 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
6 belief as to the truth of the remaining allegations in this paragraph.

7 275. This paragraph relates to a claim not made against Defendant and thus no response  
8 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
9 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
10 belief as to the truth of the remaining allegations in this paragraph.

11 **COUNT FIVE**

12 **Direct copyright infringement of the LAION-5B Registered Works by training the**  
13 **Midjourney 5B Models, including Midjourney Model version 5.2 against Midjourney on**  
14 **behalf of the LAION-5B Registered Plaintiffs and Damages Subclass**

15 276. This paragraph relates to a claim not made against Defendant and thus no response  
16 by Defendant is required. To the extent a response is required, Defendant incorporates by  
17 reference its responses to all allegations set forth in paragraphs 1–275 as if fully set forth herein.

18 277. This paragraph relates to a claim not made against Defendant and thus no response  
19 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
20 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
21 belief as to the truth of the remaining allegations in this paragraph.

22 278. This paragraph relates to a claim not made against Defendant and thus no response  
23 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
24 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
25 belief as to the truth of the remaining allegations in this paragraph.

26 279. This paragraph relates to a claim not made against Defendant and thus no response  
27 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
28 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
belief as to the truth of the remaining allegations in this paragraph.



1 belief as to the truth of the remaining allegations in this paragraph.

2 287. This paragraph relates to a claim not made against Defendant and thus no response  
3 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
4 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
5 belief as to the truth of the remaining allegations in this paragraph.

6 288. This paragraph relates to a claim not made against Defendant and thus no response  
7 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
8 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
9 belief as to the truth of the remaining allegations in this paragraph.

10 289. This paragraph relates to a claim not made against Defendant and thus no response  
11 by Defendant is required. To the extent a response is required, Defendant lacks knowledge or  
12 information sufficient to form a belief as to the truth of the allegations in this paragraph.

13 290. This paragraph relates to a claim not made against Defendant and thus no response  
14 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
15 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
16 belief as to the truth of the remaining allegations in this paragraph.

17 291. This paragraph relates to a claim not made against Defendant and thus no response  
18 by Defendant is required. To the extent a response is required, Defendant lacks knowledge or  
19 information sufficient to form a belief as to the truth of the allegations in this paragraph.

20 292. This paragraph relates to a claim not made against Defendant and thus no response  
21 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
22 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
23 belief as to the truth of the remaining allegations in this paragraph.

24 293. This paragraph relates to a claim not made against Defendant and thus no response  
25 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
26 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
27 belief as to the truth of the remaining allegations in this paragraph.

28 294. This paragraph relates to a claim not made against Defendant and thus no response

1 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
2 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
3 belief as to the truth of the remaining allegations in this paragraph.

4 295. This paragraph relates to a claim not made against Defendant and thus no response  
5 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
6 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
7 belief as to the truth of the remaining allegations in this paragraph.

8 **COUNT SEVEN**

9 **Lanham Act — false endorsement by unauthorized commercial use of artists’ names**  
10 **against Midjourney on behalf of the Midjourney Named Plaintiffs and Class**

11 296. This paragraph relates to a claim not made against Defendant and thus no response  
12 by Defendant is required. To the extent a response is required, Defendant incorporates by  
13 reference its responses to all allegations set forth in paragraphs 1–295 as if fully set forth herein.

14 297. This paragraph relates to a claim not made against Defendant and thus no response  
15 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
16 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
17 belief as to the truth of the remaining allegations in this paragraph.

18 298. This paragraph relates to a claim not made against Defendant and thus no response  
19 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
20 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
21 belief as to the truth of the remaining allegations in this paragraph.

22 299. This paragraph relates to a claim not made against Defendant and thus no response  
23 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
24 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
25 belief as to the truth of the remaining allegations in this paragraph.

26 300. This paragraph relates to a claim not made against Defendant and thus no response  
27 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
28 to which no response is required. Defendant lacks knowledge or information sufficient to form a

1 belief as to the truth of the remaining allegations in this paragraph.

2 301. This paragraph relates to a claim not made against Defendant and thus no response  
3 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
4 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
5 belief as to the truth of the remaining allegations in this paragraph.

6 302. This paragraph relates to a claim not made against Defendant and thus no response  
7 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
8 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
9 belief as to the truth of the remaining allegations in this paragraph and on that basis denies them.

10 303. This paragraph relates to a claim not made against Defendant and thus no response  
11 by Defendant is required. To the extent a response is required, Defendant lacks knowledge or  
12 information sufficient to form a belief as to the truth of the allegations in this paragraph and on  
13 that basis denies them.

14 304. This paragraph relates to a claim not made against Defendant and thus no response  
15 by Defendant is required. To the extent a response is required, Defendant lacks knowledge or  
16 information sufficient to form a belief as to the truth of the allegations in this paragraph and on  
17 that basis denies them.

18 305. This paragraph relates to a claim not made against Defendant and thus no response  
19 by Defendant is required. To the extent a response is required, Defendant lacks knowledge or  
20 information sufficient to form a belief as to the truth of the allegations in this paragraph and on  
21 that basis denies them.

22 306. This paragraph relates to a claim not made against Defendant and thus no response  
23 by Defendant is required. To the extent a response is required, Defendant lacks knowledge or  
24 information sufficient to form a belief as to the truth of the allegations in this paragraph and on  
25 that basis denies them.

26 307. This paragraph relates to a claim not made against Defendant and thus no response  
27 by Defendant is required. To the extent a response is required, Defendant lacks knowledge or  
28 information sufficient to form a belief as to the truth of the allegations in this paragraph and on

1 that basis denies them.

2 308. This paragraph relates to a claim not made against Defendant and thus no response  
3 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
4 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
5 belief as to the truth of the remaining allegations in this paragraph.

6 309. The allegations in this paragraph contain legal conclusions to which no response is  
7 required. Defendant lacks knowledge or information sufficient to form a belief as to the truth of  
8 the remaining allegations in this paragraph.

9 **COUNT EIGHT**

10 **Lanham Act — vicarious trade-dress violation by profiting from imitations of protectable**  
11 **trade dress against Midjourney on behalf of the Midjourney Named Plaintiffs and Class**

12 310. This paragraph relates to a claim not made against Defendant and thus no response  
13 by Defendant is required. Defendant incorporates by reference its responses to all allegations set  
14 forth in paragraphs 1–309 as if fully set forth herein.

15 311. This paragraph relates to a claim not made against Defendant and thus no response  
16 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
17 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
18 belief as to the truth of the remaining allegations in this paragraph.

19 312. This paragraph relates to a claim not made against Defendant and thus no response  
20 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
21 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
22 belief as to the truth of the remaining allegations in this paragraph.

23 313. This paragraph relates to a claim not made against Defendant and thus no response  
24 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
25 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
26 belief as to the truth of the remaining allegations in this paragraph.

27 314. This paragraph relates to a claim not made against Defendant and thus no response  
28 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions

1 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
2 belief as to the truth of the remaining allegations in this paragraph.

3 315. This paragraph relates to a claim not made against Defendant and thus no response  
4 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
5 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
6 belief as to the truth of the remaining allegations in this paragraph.

7 316. This paragraph relates to a claim not made against Defendant and thus no response  
8 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
9 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
10 belief as to the truth of the remaining allegations in this paragraph.

11 317. This paragraph relates to a claim not made against Defendant and thus no response  
12 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
13 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
14 belief as to the truth of the remaining allegations in this paragraph.

15 318. This paragraph relates to a claim not made against Defendant and thus no response  
16 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
17 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
18 belief as to the truth of the remaining allegations in this paragraph.

19 319. This paragraph relates to a claim not made against Defendant and thus no response  
20 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
21 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
22 belief as to the truth of the remaining allegations in this paragraph.

23 320. This paragraph relates to a claim not made against Defendant and thus no response  
24 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
25 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
26 belief as to the truth of the remaining allegations in this paragraph.

27 321. This paragraph relates to a claim not made against Defendant and thus no response  
28 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions



1 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
2 belief as to the truth of the remaining allegations in this paragraph.

3 322. This paragraph relates to a claim not made against Defendant and thus no response  
4 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
5 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
6 belief as to the truth of the remaining allegations in this paragraph.

7 323. This paragraph relates to a claim not made against Defendant and thus no response  
8 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
9 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
10 belief as to the truth of the remaining allegations in this paragraph.

11 324. This paragraph relates to a claim not made against Defendant and thus no response  
12 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
13 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
14 belief as to the truth of the remaining allegations in this paragraph.

15 325. This paragraph relates to a claim not made against Defendant and thus no response  
16 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
17 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
18 belief as to the truth of the remaining allegations in this paragraph.

19 **XVII. CAUSES OF ACTION AGAINST RUNWAY**

20 326. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
21 of the allegations in this paragraph and on that basis denies them.

22 327. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
23 of the allegations in this paragraph and on that basis denies them.

24 328. The allegations in this paragraph contain legal conclusions to which no response is  
25 required. Defendant lacks knowledge or information sufficient to form a belief as to the truth of  
26 the remaining allegations in this paragraph.

27 329. The allegations in this paragraph contain legal conclusions to which no response is  
28 required. Defendant lacks knowledge or information sufficient to form a belief as to the truth of



1 the remaining allegations in this paragraph.

2 **COUNT NINE**

3 **Direct copyright infringement of the LAION-5B Registered Works by training the Runway**  
4 **Models, including Stable Diffusion 1.5 against Runway on behalf of the LAION-5B**  
5 **Registered Plaintiffs, LAION-5B Subclass, and Karla Ortiz Individually**

6 330. This paragraph relates to a claim not made against Defendant and thus no response  
7 by Defendant is required. To the extent a response is required, Defendant incorporates by  
8 reference its responses to all allegations set forth in paragraphs 1–329 as if fully set forth herein.

9 331. This paragraph relates to a claim not made against Defendant and thus no response  
10 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
11 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
12 belief as to the truth of the remaining allegations in this paragraph.

13 332. This paragraph relates to a claim not made against Defendant and thus no response  
14 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
15 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
16 belief as to the truth of the remaining allegations in this paragraph.

17 333. This paragraph relates to a claim not made against Defendant and thus no response  
18 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
19 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
20 belief as to the truth of the remaining allegations in this paragraph.

21 334. This paragraph relates to a claim not made against Defendant and thus no response  
22 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
23 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
24 belief as to the truth of the remaining allegations in this paragraph.

25 335. This paragraph relates to a claim not made against Defendant and thus no response  
26 by Defendant is required. To the extent a response is required, Defendant lacks knowledge or  
27 information sufficient to form a belief as to the truth of the allegations in this paragraph and on  
28 that basis denies them.



1 information sufficient to form a belief as to the truth of the allegations in this paragraph and on  
2 that basis denies them.

3 343. This paragraph relates to a claim not made against Defendant and thus no response  
4 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
5 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
6 belief as to the truth of the remaining allegations in this paragraph.

7 **COUNT ELEVEN**

8 **DMCA violations by removing and altering CMI of training images against Runway on**  
9 **behalf of all Plaintiffs, the Damages and Injunctive Classes**

10 344. This paragraph relates to a claim not made against Defendant and thus no response  
11 by Defendant is required. To the extent a response is required, Defendant incorporates by  
12 reference its responses to all allegations set forth in paragraphs 1–343 as if fully set forth herein.

13 345. This paragraph relates to a claim not made against Defendant and thus no response  
14 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
15 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
16 belief as to the truth of the remaining allegations in this paragraph.

17 346. This paragraph relates to a claim not made against Defendant and thus no response  
18 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
19 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
20 belief as to the truth of the remaining allegations in this paragraph.

21 347. This paragraph relates to a claim not made against Defendant and thus no response  
22 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
23 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
24 belief as to the truth of the remaining allegations in this paragraph.

25 348. This paragraph relates to a claim not made against Defendant and thus no response  
26 by Defendant is required. To the extent a response is required, Defendant lacks knowledge or  
27 information sufficient to form a belief as to the truth of the allegations in this paragraph and on  
28 that basis denies them.

1           349. This paragraph relates to a claim not made against Defendant and thus no response  
2 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
3 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
4 belief as to the truth of the remaining allegations in this paragraph.

5           350. This paragraph relates to a claim not made against Defendant and thus no response  
6 by Defendant is required. To the extent a response is required, Defendant lacks knowledge or  
7 information sufficient to form a belief as to the truth of the allegations in this paragraph and on  
8 that basis denies them.

9           351. This paragraph relates to a claim not made against Defendant and thus no response  
10 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
11 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
12 belief as to the truth of the remaining allegations in this paragraph.

13           352. This paragraph relates to a claim not made against Defendant and thus no response  
14 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
15 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
16 belief as to the truth of the remaining allegations in this paragraph.

17           353. This paragraph relates to a claim not made against Defendant and thus no response  
18 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
19 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
20 belief as to the truth of the remaining allegations in this paragraph.

21           354. This paragraph relates to a claim not made against Defendant and thus no response  
22 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
23 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
24 belief as to the truth of the remaining allegations in this paragraph.

25           355. This paragraph relates to a claim not made against Defendant and thus no response  
26 by Defendant is required. Additionally, the allegations in this paragraph contain legal conclusions  
27 to which no response is required. Defendant lacks knowledge or information sufficient to form a  
28 belief as to the truth of the remaining allegations in this paragraph.

**XVIII. CAUSES OF ACTION AGAINST DEVIANTART**

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356. Admit.

357. Admit.

358. Defendant denies that (i) it released DreamUp on November 9, 2022; (ii) DreamUp is only available to paying customers of Defendant; (iii) a member must subscribe to a Core Plan to use DreamUp; (iv) Custom Core Plans typically range in price from \$3.95 to \$14.95 per month; and (v) DreamUp’s “Pro” level costs \$9.95 per month and permits 200 DreamUp Text Prompts per month. Defendant admits the remaining allegations in this paragraph.

359. Defendant admits that it holds itself out as, and is, an art community and that it chooses to provide many features that creators may prefer. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining statement since it is not comprehensible, and on that basis denies it.

360. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph, and on that basis denies them.

361. Defendant denies that, at the time LAION-5B was created, Defendant was aware that LAION-5B contained images from DeviantArt. Defendant denies that it was aware that Stability allegedly “downloaded these million images from the DeviantArt website as a necessary and preliminary step in the training of the Stability Models.” Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph, and on that basis denies them.

362. Defendant admits that “the ‘wixmp.com’ domain... is used by DeviantArt to store member images” and that Wix Inc. is the parent company of Defendant. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph, and on that basis denies them.

363. Defendant admits that DreamUp deployed a version of Stable Diffusion. Defendant admits that its terms of service do not disclose the version of Stable Diffusion used. The remaining allegations in this paragraph contain legal conclusions to which no response is required.

364. Defendant admits that (i) “the DreamUp terms require users to also accept the terms

1 of the CreativeML Open RAIL M License linked at <https://huggingface.co/spaces/CompVis/stable>  
2 diffusion license”; (ii) the URL refers to CompVis; and (iii) the license is dated August 22, 2022.  
3 Defendant denies the remaining inferences in the paragraph.

4 365. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
5 of the allegations in this paragraph, and on that basis denies them.

6 366. Defendant lacks knowledge or information sufficient to form a belief as to the truth  
7 of the allegations in this paragraph, and on that basis denies them.

8 367. To the extent the allegations in this paragraph contain legal conclusions, no  
9 response is required. Defendant lacks knowledge or information sufficient to form a belief as to  
10 the truth of the remaining allegations in this paragraph, and on that basis denies them.

11 368. To the extent the allegations in this paragraph contain legal conclusions, no  
12 response is required. Defendant lacks knowledge or information sufficient to form a belief as to  
13 the truth of the remaining allegations in this paragraph, and on that basis denies them.

14 369. To the extent the allegations in this paragraph contain legal conclusions, no  
15 response is required. Defendant denies that the paragraph accurately reflects Carlini’s conclusions.  
16 Defendant lacks knowledge or information sufficient to form a belief as to the truth of the  
17 remaining allegations in this paragraph, and on that basis denies them.

18 370. The allegations in this paragraph contain legal conclusions to which no response is  
19 required.

20 371. Defendant denies that it “continues to obfuscate,” or has ever obfuscated, “the  
21 source of DreamUp’s training data.” Defendant admits that the quoted text appears on its website.  
22 To the extent the allegations in this paragraph purport to summarize or characterize or are  
23 inconsistent with the full text of the webpage, Defendant denies those allegations.

24 372. Defendant denies that (i) its answer is misleading; (ii) it misled its community; and  
25 (iii) if images from DeviantArt were used to train Stable Diffusion, such images are therefore “in”  
26 Stable Diffusion, or “in” DreamUp. Defendant lacks knowledge or information sufficient to form  
27 a belief as to the truth of the remaining allegations in this paragraph, and on that basis denies them.

28 373. To the extent the allegations in this paragraph purport to quote from portions of a

1 publicly available comment, the full text of the comment speaks for itself. To the extent the  
2 allegations in this paragraph purport to summarize or characterize or are inconsistent with the full  
3 text of the comment, Defendant denies those allegations. Defendant admits that it “did not do any  
4 fine tuning of the weights included in the Stable Diffusion Model DreamUp was based on.”  
5 Defendant denies any remaining allegations in this paragraph.

6 374. Defendant admits that the quoted text appears on its website. To the extent the  
7 allegations in this paragraph purport to summarize or characterize or are inconsistent with the full  
8 text of the webpage, Defendant denies those allegations. To the extent the allegations in this  
9 paragraph contain legal conclusions, no response is required. Defendant denies any remaining  
10 allegations in this paragraph.

11 375. To the extent the allegations in this paragraph contain legal conclusions, no  
12 response is required. Defendant admits that users are permitted to resubmit their generated outputs  
13 to use as image prompts with other text in order to generate more images. Defendant denies the  
14 remaining allegations in this paragraph.

15 376. Denied.

16 377. Defendant admits that it held a group audio session on November 11, 2022 from  
17 approximately 1:00-2:30 PM PT. Defendant denies remaining allegations in this paragraph.

18 378. Defendant admits that Mr. Levy stated that: “You need to listen to what artists want.  
19 What creators want.... The reason why we’re using Stable Diffusion is because it’s the only option  
20 for us to take an open source and modify it so we can put the checks and balances inside. The  
21 other platforms, the other companies do not allow it; they are centralized companies with closed  
22 models.... We cannot modify it. So we’re taking a version—and by the way, that was my decision.  
23 That’s our decision by me as the CEO. That’s my decision to take Stable Diffusion—because it’s  
24 the only option that we can take and modify and put those checks and balances.” Defendant states  
25 that Plaintiffs’ selective quotation is misleading; the full audio recording speaks for itself. To the  
26 extent the allegations in this paragraph purport to summarize or characterize or are inconsistent  
27 with the full text of the comment, Defendant denies those allegations. Defendant denies any  
28 remaining allegations in this paragraph.



1           379. To the extent the allegations in this paragraph purport to quote from portions of a  
2 publicly available comment, the full text of the comment speaks for itself. To the extent the  
3 allegations in this paragraph purport to summarize or characterize or are inconsistent with the full  
4 text of the comment, Defendant denies those allegations. Defendant denies any remaining  
5 allegations in this paragraph.

6           380. Defendant admits that it updated its terms of service on November 11, 2022 to  
7 include a Data Scraping & Machine Learning Activities section. To the extent the allegations in  
8 this paragraph purport to paraphrase the terms of service, the full text of the terms of service speaks  
9 for itself. To the extent the allegations in this paragraph purport to summarize or characterize or  
10 are inconsistent with the full text of the terms of service, Defendant denies those allegations.  
11 Defendant denies any remaining allegations in this paragraph.

12           381. Defendant admits it is interested in using, and uses, its terms of service to protect  
13 creators. To the extent the allegations in this paragraph purport to paraphrase the terms of service,  
14 the full text of the terms of service speaks for itself. To the extent the allegations in this paragraph  
15 purport to summarize or characterize or are inconsistent with the full text of the terms of service,  
16 Defendant denies those allegations. Defendant denies any remaining allegations in this paragraph.

17           382. Defendant admits that it “sprearhead[ed] a system for artists to opt-out of having  
18 their works trained upon.” Defendant denies the remaining allegations in this paragraph.

19           383. Defendant admits that it utilizes a system of HTML tags that allows users to  
20 associate the “noai” and “noimageai” HTML tags with their art. Defendant denies the remaining  
21 allegations in this paragraph.

22           384. Denied.

23           385. Admit.

24           386. To the extent the allegations in this paragraph purport to quote the terms of service,  
25 the full text of the terms of service speaks for itself. To the extent the allegations in this paragraph  
26 purport to summarize or characterize or are inconsistent with the full text of the terms of service,  
27 Defendant denies those allegations. Defendant denies any remaining allegations in this paragraph.

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**COUNT TWELVE**

**Direct copyright infringement by copying the DreamUp–CompVis Model and incorporating it into DreamUp against DeviantArt on behalf of the LAION-5B Registered Plaintiffs**

387. Defendant incorporates by reference its responses to all allegations set forth in paragraphs 1–386 as if fully set forth herein.

388. The allegations in this paragraph contain legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations.

389. The allegations in this paragraph contain legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations.

390. The allegations in this paragraph contain legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations.

391. The allegations in this paragraph contain legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations.

392. The allegations in this paragraph contain legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations.

**JURY DEMAND**

With respect to the jury demand contained in Plaintiffs’ Second Amended Complaint, Defendant states that no response is required. To the extent a response is deemed required, Defendant denies that all of Plaintiffs’ claims are properly triable to a jury.

**AFFIRMATIVE DEFENSES**

In further answer to the allegations made by Plaintiffs in the Second Amended Complaint, Defendant asserts the following affirmative defenses, incorporating by reference all of the preceding material. Defendant does not concede that it has the burden of proof on the defenses listed below.

**FIRST AFFIRMATIVE DEFENSE**

To the extent there is copying of copyrightable expression, that copying constitutes fair use pursuant to 17 U.S.C. § 107.

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**SECOND AFFIRMATIVE DEFENSE**

Plaintiffs’ claims are barred, in whole or in part, by one or more equitable doctrines, such as estoppel and laches.

**THIRD AFFIRMATIVE DEFENSE**

Plaintiffs’ claims are barred in whole or in part by the doctrines of waiver, abandonment, and/or forfeiture.

**FOURTH AFFIRMATIVE DEFENSE**

Plaintiffs’ claims fail in whole or in part because the complained-of use was validly licensed by express or implied license.

**FIFTH AFFIRMATIVE DEFENSE**

Plaintiffs’ claims are barred, in whole or in part, because Plaintiffs do not own or hold exclusive rights under 17 U.S.C. § 106 or any copyright law over each work that was allegedly infringed, including without limitation because some or all of the materials over which Plaintiffs claim copyright are in the public domain.

**SIXTH AFFIRMATIVE DEFENSE**

To the extent there is copying of copyrightable expression, that copying is de minimis.

**SEVENTH AFFIRMATIVE DEFENSE**

To the extent Plaintiffs establish any act of infringement, that infringement was innocent, allowing for the Court to reduce any award of statutory damages to an amount as low as \$200 per work infringed. 17 U.S.C. § 504(c)(2).

**EIGHTH AFFIRMATIVE DEFENSE**

Plaintiffs’ remedies are barred at least in part by the applicable statutes of limitations.

**NINTH AFFIRMATIVE DEFENSE**

Plaintiffs’ claims are barred, in whole or in part, because Plaintiffs have suffered no provable injury as a result of Defendant’s alleged copying.

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**TENTH AFFIRMATIVE DEFENSE**

Plaintiffs’ claims for injunctive relief are barred, in whole or in part, because Plaintiffs have failed to state facts sufficient to support a claim for injunctive relief, and there is an adequate remedy at law.

**ELEVENTH AFFIRMATIVE DEFENSE**

Plaintiffs’ claims are barred, in whole or in part, because the copyright registrations purporting to cover some or all of the works in dispute are invalid and do not satisfy the requirements of 17 U.S.C. §§ 411–412.

**TWELFTH AFFIRMATIVE DEFENSE**

Plaintiffs’ claims of copyright infringement are barred or limited by the idea/expression dichotomy and/or merger doctrine.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs’ claims of copyright infringement are barred or limited because the material in which Plaintiffs claim copyright constitutes “scenes a faire.”

**FOURTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs’ claims are barred from recovery of damages because of and to the extent of their failure to mitigate their alleged damages (to which, in any event, they are not entitled).

**FIFTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs’ claims fail in whole or in part to the extent reproduction, distribution, or display of infringing material were caused by the acts or omissions of persons or entities, including Plaintiffs themselves, for whose conduct Defendant is not legally responsible.

**SIXTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs seek improper damages in violation of the United States Constitution and other applicable law. Any award of statutory or enhanced damages would constitute an unconstitutional penalty under the circumstances of this case and would violate the due process and equal protection guarantees, and other substantive and procedural safeguards, afforded by the United States Constitution.

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**ADDITIONAL AFFIRMATIVE DEFENSES**

Defendant has not knowingly or intentionally waived any applicable defenses and reserves the right to assert and rely on other applicable defenses as may become available or apparent during discovery in this matter. Defendant reserves the right to amend this Answer and/or its affirmative defenses.

**REQUEST FOR RELIEF**

WHEREFORE, Defendant respectfully requests that this Court:

1. Enter judgment in Defendant’s favor and against Plaintiffs;
2. Dismiss all claims by Plaintiffs with prejudice;
3. Award Defendant its attorneys’ fees and costs to the extent permitted by law; and
4. Grant Defendant such other and further relief as this Court deems just and proper.

Dated: December 6, 2024

Respectfully submitted,

LATHAM & WATKINS LLP

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