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 META PLATFORMS, INC.

13 **UNITED STATES DISTRICT COURT**  
 14 **NORTHERN DISTRICT OF CALIFORNIA**  
 15 **SAN JOSE DIVISION**

16 STRIKE 3 HOLDINGS, LLC, a Delaware  
 17 limited liability company, and COUNTERLIFE  
 18 MEDIA, LLC, a Delaware limited liability  
 company,

19 Plaintiffs,

20 v.

21 META PLATFORMS, INC., a Delaware  
 22 corporation,

23 Defendant.

Case No. 5:25-cv-06213-EKL

**DEFENDANT META PLATFORMS, INC.'S  
 REPLY IN SUPPORT OF MOTION TO DISMISS  
 PLAINTIFFS' COMPLAINT FOR COPYRIGHT  
 INFRINGEMENT**

Date: January 21, 2026

Time: 10:00 a.m.

Ctrm: 7

Judge: Hon. Eumi K. Lee

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1     **I. INTRODUCTION<sup>1</sup>**

2                 The lynchpin of each of Plaintiffs' copyright claims is their allegation that Meta directed  
 3 downloads of Plaintiffs' adult videos for AI training. As Plaintiffs recognize, this is essential to  
 4 their ability to show the volitional conduct required to plead direct infringement by Meta, the  
 5 financial interest required to plead vicarious liability, and the knowledge necessary to plead  
 6 contributory liability. But as Meta's Motion demonstrated and Plaintiffs' Opposition now  
 7 confirms, Plaintiffs have no facts to plausibly establish the central tenet of their claims.

8                 To start, Plaintiffs do not actually assert (nor could they) that any of their Works was used  
 9 to train any Meta AI model. This defect requires dismissal under *In re Google Generative AI*  
 10 *Copyright Litigation*, 2025 WL 2624885 (N.D. Cal. Sept. 11, 2025), but Plaintiffs fail to address  
 11 it. They also fail to allege that any Meta model has ever allegedly outputted works resembling  
 12 theirs, or generated adult images or video of any kind. Considering the undisputed fact that Meta  
 13 *prohibits* use of its AI models to create such content, Plaintiffs' rank speculation that Meta  
 14 commenced and directed a years-long campaign of torrenting their adult videos for AI training—  
 15 years before Meta even began researching video models—simply is not plausible.

16                 Many of Plaintiffs' own allegations further belie their theory. The sporadic downloads from  
 17 47 Meta IP addresses—a meager 157 total (or an average of 22 per year) spread over seven years—  
 18 exhibit the hallmarks of personal use and, in any event, are plainly inconsistent with their AI training  
 19 theory. So are the 97 individual downloads made using the residential IP address of a contractor's  
 20 *father*, whom Plaintiffs now admit to having sued for that conduct. And they still lack any credible  
 21 basis whatsoever to link Meta to 2,500 *third-party* IP addresses. The pleaded facts logically point  
 22 only *away* from Meta and refute the untenable conclusions Plaintiffs ask the Court to draw.

23                 When stripped of unsupported inferences, the only well-pleaded fact arguably connecting  
 24 Meta to the alleged wrongdoing is that 47 of its corporate IP addresses were used sporadically over  
 25 seven years to perform a small fraction of the at-issue downloads. This is not enough under *Cobbler*

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27                 <sup>1</sup> Unless otherwise stated, capitalized terms have the meanings ascribed to them in Meta's Motion  
 28 and RJN. Citations to “¶” and “Ex.” are to the Complaint's paragraphs and exhibits; citations to  
 “Opp.” and “RJN Opp.” are to Plaintiffs' oppositions to Meta's Motion and RJN, respectively (ECF  
 Nos. 37, 38); all emphases are added, and internal citations and quotation marks are omitted.

1 to plausibly plead that *Meta* directed, financially benefited from, or even knew about, any downloads  
 2 of Plaintiffs' Works. The entire Complaint should be dismissed.

3 **II. ARGUMENT**

4 **A. Plaintiffs Fail To Adequately Plead Direct Copyright Infringement**

5 Plaintiffs concede that a viable claim for copyright infringement requires "something more"  
 6 than *Meta*'s ownership of the IP addresses purportedly used to download Plaintiffs' Works. Opp.  
 7 at 7 (citing *Cobbler Nevada, LLC v. Gonzales*, 901 F.3d 1142, 1145 (9th Cir. 2018)). They  
 8 nevertheless insist they have met this requirement by alleging facts plausibly showing that *Meta*  
 9 directed the downloading of those Works for AI training. Opp. at 7–10. Plaintiffs are wrong.

10 **1. Plaintiffs do not plausibly plead that *Meta* trained AI on their Works**

11 The central premise of Plaintiffs' claims is that *Meta* directed the download of Plaintiffs'  
 12 Works via BitTorrent to "acquir[e] content to train its Meta Movie Gen, Large Language Model  
 13 ('LLaMA'), as well as various other Meta AI Models that rely on video training content." ¶ 7; *see*  
 14 Opp. at 1 (Plaintiffs seek to "protect their creative works" from "unauthorized use in *Meta*'s AI");  
 15 *id.* at 2 ("Meta pirated countless creative works from Plaintiffs ... to train its AI"). Yet, as *Meta*'s  
 16 Motion pointed out (at 12), the Complaint stops short of actually alleging that *Meta* trained any  
 17 particular model on any of Plaintiffs' Works. That defect is fatal. Under *In re Google Generative*  
 18 *AI Copyright Litig.*—which Plaintiffs do not address—a complaint "fail[s] to plausibly allege  
 19 copyright infringement" as to AI models where, as here, plaintiffs do "not allege that any of their  
 20 works were included in training datasets used to develop these models." 2025 WL 2624885, at \*4,  
 21 \*7; *see also In re Mosaic LLM, Litig.*, 2025 WL 2402677, at \*2–3 (N.D. Cal. Aug. 19, 2025) (same).

22 Plaintiffs assert that they have done enough because they have "linked the infringement to  
 23 at least one *Meta* product" and "presented evidence indicating that *Meta*'s AI trains on adult  
 24 content" (Opp. at 11 (citing ¶¶ 145, 143)), but neither argument withstands scrutiny. Paragraph  
 25 145 of the Complaint alleges that "Meta's AI Movie Gen may very well soon produce full length  
 26 films with Plaintiffs' identical style and quality," but cites no example of this and carefully avoids  
 27 alleging that Movie Gen was, in fact, trained on Plaintiffs' Works (or which ones). Indeed, the  
 28 Complaint alleges that *Meta* did not "beg[i]n researching" video generation models until 2022 and

1 did not release Movie Gen until 2024 (¶¶ 41, 45), begging the question of how downloads  
 2 purportedly dating back to 2018 (see Ex. F, Dunning Ex. 5<sup>2</sup>) could have been undertaken for  
 3 purposes of training that model. Plaintiffs decry this as mere “hairsplitting” and assert that “when  
 4 Meta actually began constructing its AI hardly excuses the infringements prior to 2022, and  
 5 certainly does not explain away those that took place after.” Opp. at 16. But this misses the point.  
 6 Plaintiffs’ asserted basis for accusing *Meta* of committing these infringements is that *Meta* wanted  
 7 Plaintiffs’ videos for AI training; if the activity occurred before and independent of any training at  
 8 *Meta*, there is no basis to plausibly infer that *Meta* directed any of it. The far more logical inference  
 9 is that individuals have used *Meta*’s internet over the years for personal reasons unrelated to *Meta*.<sup>3</sup>

10 Plaintiffs’ invocation of “evidence” that *Meta* trains on unspecified “adult content” comes  
 11 nowhere close to filling this gap. Opp. at 11. The only alleged “evidence” of this is that *Meta*’s chat  
 12 bots “may have … the capacity for fantasy sex.” ¶ 143. But the allegation that certain *text-based*  
 13 models can engage in sexually explicit roleplay says nothing about whether *Meta* trained Movie Gen  
 14 (or any other model) on *Plaintiffs’ adult videos*. Moreover, the *Meta* AI Terms of Service expressly  
 15 prohibit users from attempting to generate or disseminate adult content, making it illogical and  
 16 implausible that *Meta* would train its video models on such material. Mot. at 2.<sup>4</sup> While Plaintiffs  
 17 argue that the Terms raise factual issues about *Meta*’s control over user behavior, this argument  
 18 sidesteps the key point: *Meta*’s prohibition against generating pornographic content undermines the  
 19 plausibility of Plaintiffs’ assertion that their films were “ideal” or valuable for AI training. Opp. at  
 20 2. And unlike in *Strike 3 Holdings, LLC v. Andaya*, 2021 WL 5123643, at \*3, \*4 (N.D. Cal. Nov.  
 21 4, 2021), where *Cobbler*’s “something more” requirement was satisfied by “publicly available  
 22 information indicating a connection between [defendant’s] interests” and the allegedly infringing

24 \_\_\_\_\_  
 25 <sup>2</sup> *Meta*’s Motion (at 6 n.3) inadvertently referred to Dunning Ex. 5 as Ex. 12.  
 26 <sup>3</sup> Plaintiffs do not attempt to defend the adequacy of their pleading as to other AI models mentioned  
 27 in passing in the Complaint: SlowFast, Imagebind, Make-A-Video, V-JEPA 2, and LLaMA 4. ¶¶ 39–  
 28 52. The other alleged project, Ego4D (¶ 40), is not a model—it is a *dataset* and, thus, could not have  
 been “trained on video data” as asserted in the Opposition (at 16) but not the Complaint. *See* Mot. at  
 4; RJD Reply at 2–3. At a minimum, any claims pertaining to these models must be dismissed.  
<sup>4</sup> Plaintiffs’ RJD Opp. (at 5) affirmatively relies on a public document showing *Meta* removed two  
 sexually explicit images posted by users to its platforms as violative of *Meta* policies against such  
 content, which only proves *Meta*’s point. RJD Reply at 3.

1 downloads, Opp. at 8, here, the only plausible inference from Meta’s public statements is that Meta  
 2 had no interest in training on Plaintiffs’ adult videos and, thus, no reason to download them.

3 This is further substantiated by the Complaint’s failure to identify any instance in which  
 4 any Meta AI model ever generated adult video, much less images or video resembling Plaintiffs’  
 5 Works. *See* Mot. at 7. Plaintiffs have no statements, papers, research, news reporting or other  
 6 direct, contemporaneous evidence, nor even circumstantial evidence in the form of outputs, to  
 7 support a plausible inference that Meta ever used their Works for AI training.

8 This should end the analysis. *Ashcroft v. Iqbal* requires the court to “draw on its judicial  
 9 experience and common sense” when determining whether a complaint states a plausible claim for  
 10 relief. 556 U.S. 662, 679 (2009). Plaintiffs’ allegations throw common sense out the window.

11 **2. Plaintiffs do not plausibly plead that Meta directed the torrenting**

12 Unable to plausibly allege that Meta trained its AI models on their Works (the whole reason  
 13 it supposedly downloaded them), Plaintiffs nevertheless insist that their other allegations, taken  
 14 together, allow a plausible inference that Meta directed this activity. Plaintiffs are wrong. Piling  
 15 one unsupported inference upon another does not turn an untenable claim into a plausible one.

16 *First*, Plaintiffs assert that “at least forty-seven unique Corporate IPs owned by Meta” were  
 17 used to download 157 of their Works. Opp. at 7; Ex. A. But that is what *Cobbler* found insufficient  
 18 because an IP address owner who “establish[ed] an account” is not necessarily responsible for the  
 19 infringement where, as here, “multiple devices and individuals may be able to connect via an IP  
 20 address.” 901 F.3d at 1146; *see id.* at 1145. This is especially so in the case of Meta, whom  
 21 Plaintiffs acknowledge “[is] one of the largest companies in the world.” Opp. at 2. Plaintiffs cannot  
 22 reasonably dispute that thousands of people access the internet using Meta IP addresses every day  
 23 for both Meta and non-Meta use. Mot. at 10; RJN Reply at 2. Over seven years, that number would  
 24 be staggeringly large. As *Cobbler* recognized, although “[i]dentifying an infringer becomes even  
 25 more difficult in instances like this one, where numerous people ... visit a facility that uses the  
 26 same internet service,” that “complication does not change the plaintiff’s burden to plead factual  
 27 allegations that create a reasonable inference that the defendant is the infringer.” 901 F.3d at 1146–  
 28 47. Plaintiffs plead no such facts here. To the contrary, as alleged by Plaintiffs, the 157 downloads

1 occurred piecemeal and sporadically over seven years as one would expect of random individuals  
 2 downloading video content for personal use and in a manner that does not remotely (or plausibly)  
 3 suggest coordination by Meta for *any* purpose, much less AI training.

4 Plaintiffs cite several cases for the proposition that they have nevertheless satisfied *Cobbler*,  
 5 but each is easily distinguished. In *Andaya*, the court granted a default judgment where plaintiff  
 6 provided details to trace all alleged infringements to a single residential IP address owned by the  
 7 defendant resident, as well as facts plausibly eliminating the other residents as likely downloaders,  
 8 including through evidence from the infringer's social media. 2021 WL 5123643, at \*4; *see also*  
 9 *Strike 3 Holdings, LLC v. Doe*, 2024 WL 4467590, at \*2 (C.D. Cal. Aug. 1, 2024) (connecting  
 10 specific downloads to defendant through his social media); *Strike 3 Holdings, LLC v. Vokoun*, 2022  
 11 WL 310201, at \*3 (D.N.J. 2022) (same); *Strike 3 Holdings, LLC v. Doe*, 791 F. Supp. 3d 1102,  
 12 1104-5 (N.D. Cal. July 21, 2025) (same). Likewise, in *Headhunter, LLC v. Castillo*, the plaintiff  
 13 described the physical location and layout of defendant's residence to show it was "unlikely the IP  
 14 address was hijacked by someone outside the residence." 2018 WL 333199, at \*2 (W.D. Wash.  
 15 Jan. 9, 2018). In contrast here, Plaintiffs offer no plausible basis to tie the contents of downloads  
 16 made using the Meta corporate IP addresses to *anyone*, much less to Meta specifically, as opposed  
 17 to the countless visitors and third parties who may have accessed its internet over the years.

18 **Second**, Plaintiffs assert the requisite "something more" can be found in Exhibit G, which  
 19 they claim "outlines over 1,000 examples of Meta distributing Plaintiffs' movies for at least three  
 20 full days after acquiring" them. Opp. at 7–8. But, as Meta noted (Mot. at 6, 13) and Plaintiffs  
 21 ignore, Exhibit G does not link that alleged activity to any IP address (Meta or otherwise) or provide  
 22 any other factual basis to infer that Meta directed it. Mot. at 6. Equally unavailing is Plaintiffs'  
 23 surmise that Meta engaged in this activity to enable faster torrenting of other AI training content.  
 24 (Opp. at 2, 20, 23.). Even assuming that is how BitTorrent works, nowhere in their voluminous  
 25 exhibits do Plaintiffs identify any alleged download that was purportedly enabled or expedited by  
 26 the alleged instances of distribution. This is just a speculative theory, without any facts to render  
 27 it plausible rather than merely possible, as required. *Iqbal*, 556 U.S. at 678.

28 **Third**, Plaintiffs argue that "Exhibit B shows Meta infringing nearly 5,000 third-party files

1 consistent with the ‘massive amounts’ of data required for AI training by Meta.” Opp. at 8. But  
 2 Exhibit B is an aggregation of alleged downloads of third-party content, the vast majority of which  
 3 used *third-party* IP addresses, which are even further removed from Meta. Mot. at 4–6; *see also*  
 4 *Strike 3 Holdings, LLC v. Doe*, 2022 WL 17178309, at \*4 (N.D. Cal. Nov. 23, 2022) (finding  
 5 “particularly problematic” Strike 3’s failed attempt to link alleged infringer to downloads from third-  
 6 party IP address). Further, neither the volume nor manner of the alleged torrenting—5,000  
 7 disparate files (TV shows, photos, newspapers, music) torrented one-at-a-time using 2,500 IP  
 8 addresses over seven years—remotely suggests AI training. Indeed, Plaintiffs do not allege that  
 9 any of this third-party content was actually used, or even useful, for training any Meta AI model. *See*  
 10 Mot. at 5. As with their adult videos, Plaintiffs make no attempt to explain how any of these alleged  
 11 downloads in Exhibit B supposedly tie to Meta or anything it was purportedly doing at the time.

12 **Fourth**, Plaintiffs claim that the downloads of *third-party* works alleged in Exhibit B show  
 13 a connection or coordination between the Meta corporate IP addresses, a residential IP address, and  
 14 the 2,500 non-Meta IP addresses in Ranges A-G. Opp. at 3. This is their purported hook to attribute  
 15 all torrenting activity across the residential and non-Meta IP addresses to Meta and thereby inflate  
 16 the alleged downloads of *their* Works listed in Exhibit F beyond the 157 allegedly downloaded  
 17 using Meta corporate IP addresses (which, standing alone, plainly do not plausibly support their AI  
 18 training theory). *See* Mot. at 6 (citing ¶¶ 108–09, Exs. E, F). But this gambit fails at every level.

19 The residential IP address does not belong to Meta or any of its personnel. By Plaintiffs’  
 20 own allegations, it belongs to the *father* of a Meta contractor. ¶¶ 103–06. Plaintiffs do not allege  
 21 that the Meta contractor lived with his father or ever used his father’s IP address, a point Meta made  
 22 in its Motion (at 10) and Plaintiffs ignore. That is, Plaintiffs’ allegations are not even sufficient  
 23 under *Cobbler* to tie the downloads using the residential IP to “the conduct of Meta’s contractor”  
 24 (Opp. at 10), much less that of *Meta*. And the Opposition reveals a significant new fact—Plaintiffs  
 25 have already sued the *father* for the very same conduct. Opp. at 9–10; *compare* ¶¶ 103–06 & Exs.  
 26 B, F with Dunning Reply Ex. 9 ¶¶ 4, 48–53 & Ex. A (showing they have sued the father for the  
 27 same 97 downloads of their Works at issue here). The lawsuit plausibly explains why there were  
 28 no further torrents using the father’s IP address thereafter and undermines any plausible inference

1 that Meta directed *his* 97 alleged downloads of Plaintiffs' Works for AI training or otherwise.

2 Plaintiffs' insistence that Meta must have directed the torrenting using the 2,500 IP  
 3 addresses in Ranges A–G is likewise illogical and unsupported. To begin, Plaintiffs assert that all  
 4 seven of these ranges "trace back to off-sight [sic.] datacenters," but this contradicts their own  
 5 allegation in ¶ 99 that Range G is registered to a Hawaiian non-profit. Opp. at 3. Plaintiffs still  
 6 offer no explanation for why downloads using IP addresses in Range G might be attributed to Meta.

7 As to Ranges A–F, Plaintiffs assert, on information and belief, that these six IP ranges  
 8 correspond to "six different servers managed by a major third-party datacenter," as "referenced in  
 9 the *Kadrey* lawsuit." ¶ 98; *see also* Opp. at 4 (arguing that these ranges correspond to "six hidden  
 10 data centers that were used to engage in massive infringement of both Plaintiffs' and the *Kadrey*  
 11 plaintiffs' works as well"); Opp. at 7 (asserting that Meta "torrented LibGen and Anna's Archive").  
 12 Court filings from *Kadrey* cited in the Complaint—which Plaintiffs admit are incorporated by  
 13 reference (RJN Opp. at 2)—refer to Meta employees torrenting more than a million files from a  
 14 portion of LibGen in May 2023 (Dunning Ex. 6 at 3, 5), as well as portions of Anna's Archive, an  
 15 even larger dataset, between April and June of 2024 (Dunning Ex. 7 at 52, 93). If IP Ranges A–F  
 16 corresponded to the servers Meta allegedly used in *Kadrey* to torrent such a large amount of data,  
 17 one would expect that activity to be reflected in Exhibits B and C. It is not. Plaintiffs' rank  
 18 speculation that the third-party IP addresses used to download the works listed in Exhibit B are  
 19 Meta's alleged "off infra" servers referenced in *Kadrey* is contradicted by their own exhibits, which  
 20 show none of the activity that Plaintiffs' inference would require.

21 Meta's Motion listed other reasons that the alleged downloads do not plausibly point to the  
 22 *Kadrey* servers or Meta, but Plaintiffs have no answers to any of them. These include: (a) the  
 23 activity alleged in *Kadrey*—downloading of large datasets over discrete periods of time in 2023  
 24 and 2024—bears no similarity to the alleged one-at-a-time, sporadic downloading over seven years  
 25 of the individual third-party works listed in Exhibit B or Plaintiffs' own Works listed in Exhibit F  
 26 (Mot. at 14); (b) the alleged downloads began years before Meta is alleged to have conducted the  
 27 torrenting or configured the servers at issue in *Kadrey* (*id.* at 12); (c) Exhibits B and F reflect a  
 28 hodgepodge of duplicative, haphazard activity indicative of uncoordinated, individual actors (*id.*),

1 not, as Plaintiffs’ argue, a “sophisticated coordinated effort” (Opp. at 13) to gather the “massive  
 2 amounts” of data required for AI training (¶ 129); and (d) Plaintiffs’ theory that Meta took pains to  
 3 “conceal” the alleged downloads in Exhibits B and F that used third-party IP addresses (¶ 90) while  
 4 simultaneously using readily identifiable Meta corporate IP addresses for other downloads in those  
 5 same exhibits, including 157 of Plaintiffs’ Works, between 2018 and 2025, simply makes no sense.

6 There is only one plausible way to harmonize all of the allegations Plaintiffs seek to twist  
 7 into a claim—these downloads were not directed or coordinated by Meta. Contrary to Plaintiffs’  
 8 suggestion, this is not an “affirmative defense”; nor is Meta suggesting Plaintiffs must “disprove  
 9 any alternate or ‘innocent’ explanation where the … allegations are plausible.” Opp. at 10. Rather,  
 10 dismissal is appropriate because the facts alleged in the Complaint do *not* plausibly allow the chain  
 11 of unsupported inferences required to establish that Meta downloaded any of Plaintiffs’ Works.

12 The cases cited by Plaintiffs (Opp. at 11–12) to avoid dismissal under the *Iqbal* plausibility  
 13 standard only serve to show why dismissal is required here. *See, e.g., Starr v. Baca*, 652 F.3d 1202,  
 14 1220 (9th Cir. 2011) (“[O]nly a complaint that states a plausible claim for relief survives a motion  
 15 to dismiss”); *In re Century Alum. Co. Sec. Litig.*, 729 F.3d 1104, 1108 (9th Cir. 2013) (affirming  
 16 dismissal and holding, “To render their explanation plausible, plaintiffs must do more than allege  
 17 facts that are merely consistent with both their [] and defendants’ competing explanation[s]”); *Sandisk*  
 18 *Corp. v. IPValue Mgmt., Inc.*, 2025 WL 2838945, at \*3 (N.D. Cal. Oct. 7, 2025) (allowing patent  
 19 claim to proceed only because, unlike here, plaintiffs linked the infringement to Sandisk through  
 20 its engineers and a paper they authored disclosing the infringement). And Plaintiffs’ misleadingly  
 21 cite *United States v. Mariner Health Care, Inc.*, 552 F. Supp. 3d 938, 949 (N.D. Cal. 2021), for the  
 22 proposition that they “need not rule out obvious alternative explanations.” Opp. at 12. In reality,  
 23 the case explains that, under *Iqbal*, “where a plaintiff’s explanation is *possible* rather than plausible,  
 24 they must allege ‘something more,’ such as facts ‘tending to exclude the possibility that the  
 25 alternative explanation is true.’” *Id.* (emphasis in original). Indeed, even when a plaintiff has  
 26 “crossed the line from possibility to plausibility,” dismissal should be granted where the defendant  
 27 offers an “alternative explanation [that] is so convincing as to render [the plaintiff’s] explanation  
 28 implausible.” *Id.* Under either formulation of the standard, Plaintiffs’ claims against Meta fail.

1       **Fifth**, unable to eke out a plausible claim from their allegations and exhibits, Plaintiffs  
 2 improperly inject facts outside their pleading. For instance, Plaintiffs argue that Meta “hir[ed]  
 3 teams … and suppl[ied] them with scripts to pirate works en masse” (Opp. at 2); “perform[ed]  
 4 exhaustive, systematic, and hyper-literal searches of strings of data to acquire any file containing  
 5 even a single key word, even if it is not semantically related to the subject” (*id.* at 4); and “developed,  
 6 supplied, or encouraged” unidentified persons to use a “universal ‘script’” for the alleged  
 7 downloads (*id.*). *See also* Opp. at 16 (unpledged assertion that Ego4D and Slowfast were “trained  
 8 on video data”); *id.* at 18 n.1 (unpledged facts about supposed notice). None of this is alleged in  
 9 the Complaint or properly considered in ruling on Meta’s Motion. *Frenzel v. AliphCom*, 76 F. Supp.  
 10 3d 999, 1009 (N.D. Cal. 2014) (“[I]t is axiomatic that the complaint may not be amended by the  
 11 briefs in opposition to a motion to dismiss.”).

12       Plaintiffs’ new “facts” are also implausible on their face. To start, the only “script”  
 13 identified in the Complaint was one allegedly used in *Kadrey* to “intentionally *limit* distributing  
 14 popular books on BitTorrent.” ¶ 115. In other words, it was not a collection or scraping script; it  
 15 was designed to *prevent* the upload or “seeding” of works (¶ 118)—the opposite of what Plaintiffs  
 16 assert Exhibits G, H, and I show. If Plaintiffs are now asserting that Meta wrote a script to find and  
 17 download their Works by keyword, that is unsupported and contradicts their own Complaint.

18       Plaintiffs’ assertion that Meta “perform[ed] exhaustive, systematic, and hyper-literal  
 19 searches of strings of data to acquire any file containing even a single keyword” (Opp. at 4) is also  
 20 unpledged and unavailing. In support of this new assertion, the Opposition claims Exhibit B shows  
 21 “several instances of Meta’s IP addresses infringing either a near identical file, or a file  
 22 categorically related to a file” downloaded to an IP address in Ranges A–G or the Residential IP  
 23 address close in time to one another. *Id.* at 12. These purportedly include multiple alleged  
 24 downloads of Microsoft Office software, episodes of “Real Housewives of Atlanta” and “My  
 25 Brilliant Friend,” and three files (including a video game and book) with the common word “Origin”  
 26 in their title, all cited for the first time in Plaintiffs’ Opposition (at 12, 13). Plaintiffs argue this shows  
 27 Meta must have been “[c]rawling the web” for specific words because “[t]here is no meaningful  
 28 relationship between these works,” suggesting “the kind of systematic, hyper-literal search consistent

1 with an algorithm, and not just a person casually searching for files.” *Id.* at 13. But allegations  
 2 that the Residential IP address was used to download multiple versions of business software, or that  
 3 multiple people may have used different IP addresses to download other popular content, does not  
 4 plausibly show that *Meta* was directing these downloads. The Complaint does not allege that *Meta*  
 5 trained on video games, TV shows, or software or used a “crawler” to find files by keyword, and it  
 6 strains credulity to suggest that *Meta* would gather training data in this inefficient, nonsensical way.  
 7 If anything, using hyper-literal searching to cherry-pick torrent downloads bearing no “meaningful  
 8 relationship” to each other appears to be what *Plaintiffs* did to compile Exhibit B, the methodology  
 9 for which is otherwise unexplained in the Complaint. *See* Mot. at 10.

10 Continuing in this vein, *Plaintiffs* assert that “*Meta* distributed *Plaintiffs*’ works for  
 11 extended periods of time across different Corporate IPs.” Opp. at 7. But the only citation they  
 12 include for this proposition is Exhibit A at lines 36–37, allegedly “showing the same movie file  
 13 being torrented across two Corporate IPs between December 27, 2019 and January 6, 2020.” In  
 14 other words, these lines show two downloads of the movie file, not any distribution (alleged  
 15 distributions appear in Exhibits G, H, and I, which do not identify any *Meta* corporate IP  
 16 addresses).<sup>5</sup> Moreover, according to Exhibit D (at line 266), this particular movie was first  
 17 published on December 25, 2019. These unpleaded allegations thus establish, at most, that two  
 18 unidentified persons used *Meta* corporate IP addresses to torrent a new release film within 10 days  
 19 of each other. This does not plausibly support *Plaintiffs*’ speculation that *Meta* directed these or  
 20 any other alleged torrents for AI training or any other purpose.<sup>6</sup>

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23       <sup>5</sup> *Plaintiffs* also mischaracterize their own allegations when they assert that they traced “well over  
 24 100,000 unauthorized distribution[s]” “directly to *Meta*’s offices or to entities associated with *Meta*.”  
 25 Opp. at 2 (citing ¶ 80). This paragraph alleges that *Plaintiffs* “documented … well over 100,000  
 26 unauthorized distribution *transactions*,” i.e., *pieces* of works sent out (see ¶ 63 (alleging that  
 BitTorrent breaks files “down into numerous pieces”)), and none of the alleged distributions in  
 Exhibits G, H, or I are alleged to have emanated from *Meta* corporate IP addresses.

27       <sup>6</sup> Another third-party work was allegedly torrented four times using four different *Meta* corporate  
 28 IP addresses on April 22, 2019. Ex. A, Ins. 28–31. Exhibit F (which should contain all downloads  
 from Ex. A) also shows four downloads of this work (all at line 1822), but none of the listed IP  
 addresses match, calling into serious question the reliability of the purported data in those exhibits  
 and obscuring, rather than clarifying, what *Meta* is being accused of.

### 3. Plaintiffs misstate the volitional conduct standard

2 As explained in Meta’s Motion, a claim for direct infringement should be dismissed where  
3 the alleged facts do not plausibly establish that defendant’s own volitional conduct was “the direct  
4 cause of the infringement.” *Perfect 10, Inc. v. Giganews, Inc.*, 847 F.3d 657, 666 (9th Cir. 2017)  
5 668–670 (affirming dismissal). Plaintiffs concede that direct liability requires “proximate causation”  
6 (Opp. at 14 (citing *VHT, Inc. v. Zillow Grp., Inc.*, 918 F.3d 723, 745 (9th Cir. 2019))), but then assert  
7 that this is satisfied so long as “an actual human was involved.” *Id.* (citing *Strike 3 Holdings, LLC*  
8 *v. Doe*, 2025 WL 2309020, at \*2 (S.D. Cal. July 3, 2025)). Not so. While a human must be  
9 involved in any infringement claim, direct liability will not lie absent facts plausibly establishing  
10 that Meta caused the infringement. *See Strike 3 Holdings, LLC v. Lim*, 2022 WL 3137937, at \*2  
11 (N.D. Cal. Mar. 31, 2022). Strike 3 fails to plead such facts here. This is not an “explanatory gap[]”  
12 that can be cured in discovery (Opp. at 15); it is a bedrock pleading requirement they fail to satisfy.

13 Because Plaintiffs fail to plausibly tie alleged downloads of their Works to Meta through  
14 AI training or otherwise, the allegation that Meta IP addresses were used for such downloads is  
15 “merely consistent with [Meta’s] liability, … stop[ping] short of the line between possibility and  
16 plausibility of entitlement to relief.”” *Cobbler*, 901 F.3d at 1147 (citing *Iqbal*, 556 U.S. at 678).

## **B. Plaintiffs Fail To Adequately Plead Vicarious Liability**

18 Meta explained that Plaintiffs failed to adequately allege the elements of a vicarious  
19 infringement claim. Mot. at 15–16. Plaintiffs’ Opposition does not show otherwise.

20        **No requisite control:** The “control” element looks to “defendant’s failure to cause a third  
21 party to stop its directly infringing activities.” *Perfect 10, Inc. v. Amazon.com, Inc.*, 508 F.3d 1146,  
22 1175 (9th Cir. 2007). Plaintiffs argue that “Meta has the right and ability to supervise and/or control”  
23 its own IP addresses and those “hosted in off-infra data centers” and “supplied an ‘AI script’ to its  
24 agents ‘to obtain content through BitTorrent.’” Opp. at 19. As discussed above, Plaintiffs do not  
25 adequately plead that Meta knew about, or could have stopped, downloads using the Residential or  
26 third-party IP addresses. And absent facts to tie the sprinkling of 157 downloads over seven years  
27 using Meta IP addresses to Meta personnel (as opposed to visitors, vendors, or other third parties  
28 using its internet, which is just as likely), Plaintiffs cannot show Meta controlled the unidentified

1 people who allegedly conducted those downloads either. Plaintiffs' allegations, therefore, fail to  
 2 raise a plausible inference that Meta could have stopped any of the alleged direct infringers.

3 **No requisite financial interest:** Plaintiffs also fail to allege, as they must, that Meta has a  
 4 "direct financial interest" in the supposed infringement. *Perfect 10*, 847 F.3d at 673; Mot. at 16.  
 5 Plaintiffs cite *Robinson v. Binello* to argue that Meta "generally" benefitted by attracting users to  
 6 its "services specifically because of the availability of infringing material." Opp. at 19 (citing 771  
 7 F. Supp. 3d 1114, 1125–26 (N.D. Cal. 2025)). In *Robinson*, the court found this satisfied because  
 8 the defendant received "fees that were paid for each upload or download of the specific infringing  
 9 work." 771 F. Supp. 3d at 1126. Here, Plaintiffs assert that "[f]ees Meta charges for its product"  
 10 qualify as a direct financial benefit (Opp. at 20), but they make no attempt to tie those fees to the  
 11 "availability of infringing material," as required. *Robinson*, 771 F. Supp. at 1126. They cannot do  
 12 so, because Plaintiffs cannot plausibly plead that Meta trained any AI model on their Works.

13 Plaintiffs next contend that Meta's position—that "'avoidance of licensing fees' is not a  
 14 direct financial benefit that can support vicarious liability" (Mot. at 16)—is based on a "deceptively  
 15 truncated" case quote. Opp. at 20. Not so. The full sentence reads: "Thus, Only Websites'  
 16 avoidance of licensing fees did not confer a direct financial benefit on Kast as a matter of law,"  
 17 confirming Meta's position. *Erickson Prods., Inc. v. Kast*, 921 F.3d 822, 830-31 (9th Cir. 2019).

18 Finally, Plaintiffs argue that Meta benefited through "gained efficiencies" such as "better  
 19 download speeds" and "lower labor costs." Opp. at 20. But they concede that such "efficiencies"  
 20 are not a "draw for *customers*," which is what courts have recognized as a viable financial benefit  
 21 that may support a claim for vicarious infringement. *A&M Records, Inc. v. Napster, Inc.*, 239 F.3d  
 22 1004, 1023 (9th Cir. 2001). Regardless, Plaintiffs also fail to identify any Work for which Meta's  
 23 alleged infringement purportedly sped up download speeds, reduced labor costs, or made any other  
 24 download more efficient, leaving this conclusory "financial benefit" entirely unsubstantiated.

25 **C. Plaintiffs Fail To Adequately Plead Contributory Liability**

26 Plaintiffs also fail to plausibly allege a claim for contributory infringement.

27 **No requisite knowledge or willful blindness:** Plaintiffs' allegation that Meta was aware  
 28 of the alleged infringement rests on the faulty premise that it "specifically ordered that such activity

1 take place” by “invent[ing] a general scheme and script to infringe Plaintiffs’ works.” Opp. at 21.  
 2 As discussed, Plaintiffs do not plausibly allege that any downloads were part of a “scheme” by  
 3 Meta to download its Works for AI training or that Meta created any “script[s]” to infringe those  
 4 Works. *See supra* at 9. Plaintiffs cite *Louis Vuitton Malletier, S.A. v. Akanoc Sols., Inc.*, 591 F.  
 5 Supp. 2d 1098 (N.D. Cal. 2008), but it is no help to Plaintiffs. There, the knowledge requirement  
 6 was met through allegations that defendants expressly acknowledged the alleged infringement. *Id.*  
 7 at 1107 (collecting emails and testimony). Plaintiffs plead no such facts here; any assertion that  
 8 Meta trained AI models on Plaintiffs’ adult videos is factually unsupported.

9 Plaintiffs instead argue that they need only plead the required knowledge “generally” and  
 10 have done so by alleging that “Meta knowingly and materially contributes to, encourages, and  
 11 induces [the direct] infringement[.]” Opp. at 21. But “[t]hreadbare recitals of the elements of a  
 12 cause of action, supported by mere conclusory statements, do not suffice.” *Iqbal*, 556 U.S. at 678.

13 Finally, acknowledging that Meta is not required to “police” the internet under *Cobbler*,  
 14 Opp. at 22, Plaintiffs baldly assert that “Meta has known about copyright violations both generally  
 15 and from Plaintiffs’ warnings.” *Id.* Plaintiffs neither explain what it means for Meta to have known  
 16 of violations “generally” nor identify any allegation in the Complaint supporting that claim. And  
 17 Plaintiffs nowhere address—much less rebut—that their purported “warnings” do not constitute  
 18 effective notice, as the Complaint failed to plead what their notice consisted of (*see ¶¶ 131, 167*) or  
 19 that it provided “sufficient information to be able to find the specific infringing content on its  
 20 system.” *Waterman v. TikTok, Inc.*, 2024 WL 5413655, at \*3 (C.D. Cal. Oct. 30, 2024).<sup>7</sup>

21 In short, the Complaint does not plausibly establish that Meta was either aware of, or  
 22 willfully blind to, the alleged infringement of their Works by the unidentified users of 47 Meta IP  
 23 addresses and more than 2,500 third-party IP addresses.

24 **No material contribution:** Plaintiffs contend that Meta materially contributed to the  
 25 alleged infringement through “the algorithm it designed or encouraged that instructed the various

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27 <sup>7</sup> The unpled detail in footnote 1 of the Opposition (at 18) is not properly considered, *Frenzel*,  
 28 76 F. Supp. 3d at 1009, and would not help Plaintiffs in any event, as that information would not  
 have told Meta where in its vast systems to even begin looking for the purported downloads, if they  
 ever resided there to begin with (which is also not supported by any well-pled facts).

1 IP addresses what materials to download.” Opp. at 22. None of this is supported by well-pleaded  
 2 allegations in the Complaint, *see supra* at 10, so it cannot support their material contribution theory.

3 That Meta provided “access to its servers, data centers, IP addresses, computers, networks,  
 4 accounts, and other tools” (¶ 165)—which is simply to say that it provided employees, contractors,  
 5 and visitors with internet access—is also insufficient. Plaintiffs must satisfy the governing standard  
 6 and plausibly allege that Meta “‘ha[d] actual knowledge that specific infringing material is  
 7 available using its system and can take simple measures to prevent further damage to copyrighted  
 8 works yet continues to provide access to [them].’” *Waterman*, 2024 WL 5413655, at \*4 (quoting  
 9 *Giganews*, 847 F.3d at 671). Plaintiffs disregard this by asserting that the “simple measure” test is  
 10 inapplicable in the “employment” as opposed to “online” context, Opp. at 23, but they cite no case  
 11 holding that. *Cf. Giganews*, 847 F.3d at 671 (dismissing contributory infringement claims where,  
 12 as here, plaintiff failed to adequately plead that defendant—the operator of a platform that allowed  
 13 users to post and exchange messages—could have taken “simple measures to prevent further  
 14 damage to copyrighted works”). Moreover, Plaintiffs have not pleaded facts here to plausibly tie  
 15 the alleged infringement to any Meta employee, so the distinction is no help to them either way.

16 As noted in Meta’s Motion, the Complaint fails to identify any simple measures Meta could  
 17 have taken to prevent the alleged infringement short of cutting off internet access or monitoring  
 18 every file downloaded by any person using Meta’s global network. Mot. at 24. That runs afoul of  
 19 *Cobbler*. See 901 F.3d at 1148–49 (alleged failure to “secure, police, and protect” an internet  
 20 connection from infringement fails to state a plausible claim). Indeed, the minimal downloads of  
 21 Plaintiffs’ Works using Meta IP addresses—an average of 22 per year—only underscore how  
 22 untenable that proposition is, given that thousands of people use Meta’s internet every day. Further,  
 23 the vast majority of Plaintiffs’ claims rest on downloads from third-party IP addresses over which  
 24 Meta has no control, negating the existence of simple (or any) measures Meta could have taken to  
 25 avoid the infringement. This case is nothing like *Miller v. Facebook Inc.*, where Facebook could  
 26 have taken the simple step of disabling a specific account or removing a specifically identified game  
 27 from the “Facebook Application Directory.” 2010 WL 2198204, at \*7 (N.D. Cal. May 28, 2010).

1 Plaintiffs' attempt to analogize the facts here to *Fonovisa* and *Napster* fails as well. In  
 2 *Fonovisa Inc. v. Cherry Auction, Inc.*, the defendant "actively strive[d] to provide the environment  
 3 and the market for counterfeit recording sales to thrive," 76 F.3d 259, 264 (9th Cir. 1996), and in  
 4 *Napster* defendant provided an "integrated service designed to enable users to locate and download  
 5 MP3 music files," 239 F.3d at 1022. The facts in those cases are a far cry from Meta's provisioning  
 6 of internet access, the only purported contribution plausibly alleged in the Complaint. Moreover,  
 7 *Mon Cheri Bridals, LLC v. Cloudflare, Inc.* supports Meta, not Plaintiffs. There, the Court found  
 8 that the defendants' services were not an "essential step in the infringement" and "[f]rom the  
 9 perspective of a user accessing the infringing websites," the services provided by the defendant  
 10 "make no difference." 2021 WL 4572015, at \*2 (N.D. Cal. Oct. 6, 2021). Here, too, the identity  
 11 of the internet provider "makes no difference" to users downloading adult content for personal use.

12 Finally, Plaintiffs do not dispute that "liability for another's infringement cannot arise from  
 13 the mere distribution of a product that is 'widely used for legitimate, [non-infringing] purposes.'" *Sony  
 14 Cobbler*, 901 F.3d at 1148 (citing *Sony Corp. of Am. v. Univ. City Studios, Inc.*, 464 U.S. 417, 442  
 15 (1984)). This forecloses Plaintiffs' material contribution claim, as the Ninth Circuit has already  
 16 found that a company's providing internet access to employees and visitors cannot support a claim  
 17 for contributory liability. *Id.* at 1149 (affirming the dismissal of contributory infringement claim  
 18 and reasoning: "Providing internet access can hardly be said to be distributing a product or service  
 19 that is not 'capable of substantial' or 'commercially significant noninfringing uses'").

20 **No inducement:** Plaintiffs assert that their inducement theory is adequately pleaded by  
 21 repeating the assertion that "[t]here is widespread infringement that traces to Meta's Corporate IPs,  
 22 Off-Infra IPs, and Residential IP, indicating a corporate policy of piracy." Opp. at 25. As discussed,  
 23 Plaintiffs have not adequately pleaded such facts, and its inducement theory therefore fails.

24 **III. CONCLUSION**

25 The claims against Meta for direct, vicarious, and contributory copyright liability are  
 26 implausible, unsupported, and in conflict with Plaintiffs' own pleaded facts. As such, the entire  
 27 Complaint should be dismissed with prejudice.

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2 Dated: November 20, 2025

CLEARY GOTTLIEB STEEN & HAMILTON LLP

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4

/s/ Angela L. Dunning

5 Angela L. Dunning

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7 Attorneys for Defendant  
8 META PLATFORMS, INC.

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