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 14

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 15

16 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
 17 **SAN FRANCISCO DIVISION**

18 SARAH ANDERSEN, an individual;
 KELLY MCKERNAN, an individual;
 19 KARLA ORTIZ, an individual,
 20 Individual and Representative Plaintiffs,

21 v.

22 STABILITY AI LTD., a UK corporation;
 STABILITY AI, INC., a Delaware
 23 corporation; MIDJOURNEY, INC., a
 Delaware corporation; DEVIANTART, INC.,
 24 a Delaware corporation,

25 Defendants.
 26
 27
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Case No.

COMPLAINT

CLASS ACTION

DEMAND FOR JURY TRIAL

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I. AI IMAGE GENERATORS ARE 21ST-CENTURY COLLAGE TOOLS THAT VIOLATE THE RIGHTS OF MILLIONS OF ARTISTS1

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1 Plaintiffs Sarah Andersen, Kelly McKernan, and Karla Ortiz (“Plaintiffs”), on behalf of
2 themselves and all others similarly situated, bring this Class Action Complaint (the
3 “Complaint”) against Defendants Stability AI Ltd. and Stability AI, Inc. (collectively
4 “Stability”); Midjourney, Inc. (“Midjourney”); and DeviantArt, Inc. (“DeviantArt”) (all
5 collectively “Defendants”) for direct and vicarious copyright infringement under 17 U.S.C.
6 § 501; violation of the Digital Millennium Copyright Act, 17 U.S.C. §§ 1201–1205 (the
7 “DMCA”); violation of Plaintiffs’ statutory and common law rights of publicity, Cal. Civ. Code
8 section 3344; violation of Unfair Competition law, *Cal. Bus. & Prof. Code* §§ 17200, *et seq.*; and
9 declaratory relief.

10 I. AI IMAGE GENERATORS ARE 21ST-CENTURY COLLAGE TOOLS 11 THAT VIOLATE THE RIGHTS OF MILLIONS OF ARTISTS

12 1. Stable Diffusion is a software product—defined below as an AI Image Product—
13 maintained and sold by Stability.

14 2. Stability downloaded or otherwise acquired copies of billions of copyrighted
15 images without permission to create Stable Diffusion, including Plaintiffs’. These images are
16 defined below as “Training Images.”

17 3. By training Stable Diffusion on the Training Images, Stability caused those images
18 to be stored at and incorporated into Stable Diffusion as compressed copies. Stability made them
19 without the consent of the artists and without compensating any of those artists.

20 4. When used to produce images from prompts by its users, Stable Diffusion uses the
21 Training Images to produce seemingly new images through a mathematical software process.
22 These “new” images are based entirely on the Training Images and are derivative works of the
23 particular images Stable Diffusion draws from when assembling a given output. Ultimately, it is
24 merely a complex collage tool.

25 5. These resulting derived images compete in the marketplace with the original
26 images. Until now, when a purchaser seeks a new image “in the style” of a given artist, they must
27 pay to commission or license an original image from that artist. Now, those purchasers can use

28 the artist’s works contained in Stable Diffusion along with the artist’s name to generate new

1 works in the artist’s style without compensating the artist at all. As used herein, the phrase “in
2 the style of,” refers to a work that others would accept as a work created by that artist whose
3 “style” was called upon, not the general category of work, such as fantasy or impressionism. Only
4 a very small number of incredibly talented artists are capable of this same feat for a single other
5 artist (i.e., reproducing art that is convincingly in that artist’s style), let alone for countless other
6 artists. AI Image Products do so with ease by violating the rights of millions of artists.

7 6. All AI Image Products operate in substantially the same way and store and
8 incorporate countless copyrighted images as Training Images.

9 7. Defendants, by and through the use of their AI Image Products, benefit
10 commercially and profit richly from the use of copyrighted images.

11 8. The harm to artists is not hypothetical—works generated by AI Image Products
12 “in the style” of a particular artist are already sold on the internet, siphoning commissions from
13 the artists themselves.

14 9. Plaintiffs and the Class seek to end this blatant and enormous infringement of their
15 rights before their professions are eliminated by a computer program powered entirely by their
16 hard work.

17 II. JURISDICTION AND VENUE

18 10. Plaintiffs bring this action on their own behalf and as representatives of a Class of
19 similarly situated individuals and entities. They seek to obtain injunctive relief and recover
20 damages as a result and consequence of Defendants’ unlawful conduct.

21 11. Jurisdiction and venue are proper in this judicial district pursuant to Defendants’
22 unauthorized use of Plaintiffs’ and the Class’s intellectual property in violation of the Copyright
23 Act, 17 U.S.C. § 501, the Digital Millennium Copyright Act, 17 U.S.C. §§ 1201–1205 (the
24 “DMCA”); Unjust Enrichment, and Unfair Competition; California’s right of publicity,
25 contract, negligence, privacy, and unfair competition statutes and case law.

26 12. A substantial part of the events giving rise to Plaintiffs’ claims occurred in this
27 District.

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