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 19 ***and Stability AI, Inc.***

20 **UNITED STATES DISTRICT COURT**
 21 **NORTHERN DISTRICT OF CALIFORNIA**
 22 **SAN FRANCISCO DIVISION**

23 SARAH ANDERSEN, an individual;
 24 KELLY MCKERNAN, an individual;
 25 KARLA ORTIZ, an individual,

26 Individual and Representative Plaintiffs,

27 v.

28 STABILITY AI LTD., a UK corporation;
 STABILITY AI, INC., a Delaware
 corporation; MIDJOURNEY, INC., a
 Delaware corporation; DEVIANTART,
 INC., a Delaware corporation,

Defendants.

CASE NO. 23-cv-00201-WHO

**DEFENDANT STABILITY AI, LTD. AND
 STABILITY AI, INC.'S NOTICE OF
 JOINDER IN DEFENDANT DEVIANTART,
 INC.'S SPECIAL MOTION TO STRIKE
 UNDER CALIFORNIA CODE OF CIVIL
 PROCEDURE § 425.16**

Date: July 19, 2023
 Time: 2:00 p.m.
 Place: Courtroom 2 - 17th Floor
 Before: Hon. William H. Orrick

Trial Date: TBD
 Date Action Filed: January 13, 2023

NOTICE OF JOINDER AND JOINDER TO ANTI-SLAPP MOTION

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **NOTICE IS HEREBY GIVEN** that Defendants Stability AI, Ltd., and Stability AI, Inc.
3 (“Stability Defendants”) hereby join in DeviantArt, Inc.’s (“DeviantArt”) Special Motion to Strike
4 Under California Code of Civil Procedure § 425.16 (“Motion”) (Dkt. 50).

5 The Stability Defendants join in DeviantArt’s Motion and all supporting papers submitted
6 therewith, for all the reasons stated therein, namely, that Plaintiffs’ cannot demonstrate a
7 probability of prevailing on their speech-inhibiting right of publicity claims because the claims:
8 (1) fall within the subject matter of copyright, are predicated on assertions of rights that are
9 equivalent to copyright rights, and are therefore preempted under 17 U.S.C. § 301; (2) are based
10 exclusively on conclusory allegations; (3) would improperly expand the concept of publicity rights
11 to prohibit use of an individual’s name to accurately refer to that individual’s public acts or
12 achievements—in this case, the “artistic styles” that Plaintiffs claim they “popularized” on the
13 internet (¶ 205); and (4) are predicated on, if anything, transformative uses of Plaintiffs’ identities
14 or likenesses, which are protected First Amendment speech, particularly inasmuch as Plaintiffs,
15 themselves, allege that it is nearly “impossible” to identify any alleged Work of Plaintiffs from the
16 face of any output from defendants’ platforms. (¶¶ 192–93.)

17 By way of this joinder, the Stability Defendants request that the Court grant the Motion
18 and strike Plaintiffs’ right-of-publicity claims against the Stability Defendants.

19
20 Dated: April 18, 2023

Respectfully submitted,

21 By: /s/ Paul M. Schoenhard

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