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18 ***Counsel for Defendant Stability, Ltd.***
 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

**DEFENDANTS 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

1 **SUPPLEMENTAL NOTICE OF JOINDER AND JOINDER TO ANTI-SLAPP**
2 **MOTION**

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

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

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

19 The Stability Defendants hereby provide supplemental notice of joinder to adopt the
20 additional reasons, discussion, and arguments presented in DeviantArt’s Reply in Support of its
21 Special Motion to Strike (ECF No. 78).

22 By way of this supplemental joinder, the Stability Defendants reiterate their request that the
23 Court grant the Motion and strike Plaintiffs’ right-of-publicity claims against the Stability
24 Defendants.

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26 Dated: July 3, 2023

Respectfully submitted,

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By: /s/ Paul M. Schoenhard

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