

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GETTY IMAGES (US), INC.)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 23-135 (GBW)
)	
STABILITY AI, LTD. and STABILITY AI,)	DEMAND FOR JURY TRIAL
INC.)	
Defendants.)	

AMENDED COMPLAINT

Plaintiff Getty Images (US), Inc. (“Getty Images” or “Plaintiff”), by and through its undersigned attorneys, for its Amended Complaint against Defendants Stability AI, Ltd. and Stability AI, Inc. (collectively “Stability AI” or “Defendants”), hereby alleges as follows:

NATURE OF ACTION

1. This case arises from Stability AI’s brazen infringement of Getty Images’ intellectual property on a staggering scale. Upon information and belief, Stability AI has copied *more than 12 million* photographs from Getty Images’ collection, along with the associated captions and metadata, without permission from or compensation to Getty Images, as part of its efforts to build a competing business. As part of its unlawful scheme, Stability AI has removed or altered Getty Images’ copyright management information, provided false copyright management information, and infringed Getty Images’ famous trademarks.

2. Getty Images brings this action to recover damages that it has suffered and is continuing to suffer, and to prevent the irreparable harm caused by Stability AI’s intentional and willful acts in violation of United States and Delaware law.

3. Getty Images is one of the world’s leading creators and distributors of digital content. At great expense, over the course of nearly three decades, Getty Images has curated a

collection of hundreds of millions of premium quality visual assets, most of which are still, photographic images. Many of these images were created by Getty Images staff photographers as works made-for-hire, others have been acquired by Getty Images from third parties with an assignment of the associated copyrights, and the remainder have been licensed to Getty Images by its hundreds of content partners or hundreds of thousands of contributing photographers, who rely on the licensing income Getty Images generates for them.

4. Getty Images makes hundreds of millions of visual assets available to customers throughout the world and in this District via websites, including but not limited to www.gettyimages.com and www.istock.com. The visual assets on Getty Images' websites are accompanied by: (i) titles and captions which are themselves original and creative copyrighted expression; (ii) watermarks with credit information and content identifiers that are designed to deter infringing uses of the content; and (iii) metadata containing other copyright management information.

5. Getty Images serves creative, corporate, and media customers in more than 200 countries around the world, and its imagery helps its customers produce work which appears every day in the world's most influential newspapers, magazines, advertising campaigns, films, television programs, books and websites. In appropriate circumstances, and with safeguards for the rights and interests of its photographers and contributors and the subjects of the images in its collection, Getty Images also licenses the use of its visual assets and associated metadata in connection with the development of artificial intelligence and machine learning tools. Getty Images has licensed millions of suitable digital assets to leading technology innovators for a variety of purposes related to artificial intelligence and machine learning.

6. Getty Images' visual assets are highly desirable for use in connection with artificial intelligence and machine learning because of their high quality, and because they are accompanied by content-specific, detailed captions and rich metadata.

7. Upon information and belief, Stability AI was founded in 2020 by Emad Mostaque, a former hedge fund executive, as a for-profit company. According to press reports in October 2022, Stability AI raised more than \$100 million from venture capital investors and was already valued at \$1 billion. According to more recent press reports, Stability AI is now seeking to raise even more money at a valuation of approximately \$4 billion. On the back of intellectual property owned by Getty Images and other copyright holders, Stability AI has created an image-generating model called Stable Diffusion that uses artificial intelligence to deliver computer-synthesized images in response to text prompts. In addition to offering open-source versions of Stable Diffusion, Stability AI offers a revenue-generating user interface called DreamStudio that is powered by its Stable Diffusion model. DreamStudio enables users to obtain images from the Stable Diffusion model on their own personal computers without the need for software installation or coding knowledge, and Stability AI charges fees for that service.

8. Rather than attempt to negotiate a license with Getty Images for the use of its content, and even though the terms of use of Getty Images' websites expressly prohibit unauthorized reproduction of content for commercial purposes such as those undertaken by Stability AI, Stability AI copied at least 12 million copyrighted images from Getty Images' websites, along with associated text and metadata, in order to train its Stable Diffusion model.

9. Stability AI now competes directly with Getty Images by marketing Stable Diffusion and its DreamStudio interface to those seeking creative imagery, and its infringement of Getty Images' content on a massive scale has been instrumental to its success to date.

10. Upon information and belief, Stability AI was well aware that the content it was scraping without permission from Getty Images' websites was protected by U.S. copyright law.

11. Often, the output generated by Stable Diffusion has contained a modified version of a Getty Images watermark, creating confusion as to the source of the images and falsely implying an association with Getty Images. While some of the output generated through the use of Stable Diffusion is aesthetically pleasing, other output is of much lower quality and at times ranges from the bizarre to the grotesque. Stability AI's incorporation of Getty Images' marks into low quality, unappealing, or offensive images dilutes those marks in further violation of federal and state trademark laws.

12. Getty Images therefore brings this action alleging claims under the Copyright Act of 1976, 17 U.S.C. §101 *et seq.*, the Lanham Act, 15 U.S.C. § 1051 *et seq.*, and Delaware trademark and unfair competition laws to bring an end to Stability AI's blatantly infringing conduct in the United States and in Delaware and to obtain redress for Stability AI's callous disregard for its intellectual property rights.

PARTIES

13. Plaintiff Getty Images (US), Inc. is a New York corporation with headquarters in Seattle, Washington. It is the owner or exclusive licensee of the copyrights subject to the copyright infringement claims at issue and the owner of the trademarks at issue.

14. Upon information and belief, Defendant Stability AI, Inc. is a Delaware corporation with headquarters in London, UK.

15. Upon information and belief, Defendant Stability AI, Ltd. is a UK corporation with headquarters in London, UK. As set forth more fully below, Defendants Stability AI, Ltd. and Stability AI, Inc. are alter egos of one another and operate as a single enterprise.

JURISDICTION AND VENUE

16. This action arises under the Copyright Act of 1976, 17 U.S.C. §101 *et seq.*, the Lanham Act, 15 U.S.C. § 1051 *et seq.*, and Delaware trademark and unfair competition laws. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338, and 1367.

17. This Court has personal jurisdiction over Defendant Stability AI, Inc. because Stability AI, Inc. is incorporated in Delaware.

18. Defendant Stability AI, Ltd. is an alter ego of and operates as a single enterprise with Defendant Stability AI, Inc. The two corporations share the same CEO and founder: Mr. Mostaque. Upon information and belief, in addition to serving as CEO and Director of Stability AI, Inc., Mr. Mostaque controls 75% or more of the voting rights, 75% or more of the shares, and has the right to appoint or remove a majority of the board of directors of Stability AI, Ltd. Stability AI, Inc. and Stability AI, Ltd. also present themselves as a single enterprise: their principal offices are located at the same physical London address and share both an email domain (@stability.ai) and website (<https://stability.ai/>).

19. According to Dun & Bradstreet, Stability AI, Ltd. is a subsidiary of Stability AI, Inc. and, as of November 2022, Stability AI, Ltd.'s sole share was owned by Stability AI, Inc. And, according to the records of the Delaware Secretary of State, Stability AI, Inc.'s corporate charter was voided for non-payment of taxes and/or failure to file a complete annual report in 2022, and Stability AI, Inc. subsequently filed a certificate to revive its charter, indicating that Stability AI, Inc. is not an independently-operating company.

20. Upon information and belief, Stability AI, Ltd. employs all of the company's employees and conducts all of the company's activities, while Stability AI, Inc. is a shell holding company, which has no employees or day-to-day operations. But, according to SEC filings, in

October 2022, Stability AI, Inc. raised over \$75 million through a securities offering (including around \$11 million of convertible indebtedness and accrued interest). Upon information and belief, the funds raised by Stability, AI, Inc. are used to fund the activities of Stability AI, Ltd., including those described in this Amended Complaint.

21. This Court also has personal jurisdiction over Defendant Stability AI, Ltd. based on Stability AI, Ltd.'s contacts with Delaware and the United States.

22. Stability AI, Ltd. operates a website that is accessible to internet users in Delaware and elsewhere in the United States. From that website, users throughout the United States, including in Delaware, can access Stability AI's offerings, such as Stable Diffusion and DreamStudio.

23. The Stability AI, Ltd. website does not specifically target users in any one state of the United States, and instead targets users across the United States, including users located in Delaware.

24. Upon information and belief, Stability AI, Ltd. maintains cloud computing and physical server resources in the United States.

25. The Stability AI, Ltd. website expressly states that the site (i.e., <https://stability.ai/>) and its content are "protected by copyright, trade dress, trademark, moral rights, and other intellectual property laws in the United States, the United Kingdom, and other international jurisdictions." As a result, Stability AI, Ltd. has demonstrated its intent to avail itself of jurisdiction and the legal protections of the United States.

26. Accordingly, Stability AI, Ltd. has sufficient contacts with the United States to be subject to personal jurisdiction in Delaware. *See* Fed. R. Civ. P. 4(k)(2).

27. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because Defendant Stability AI, Inc. is subject to personal jurisdiction in this District. Venue is also proper in this District pursuant to 28 U.S.C. § 1400(a), because Stability AI or its agents reside or may be found in this District.

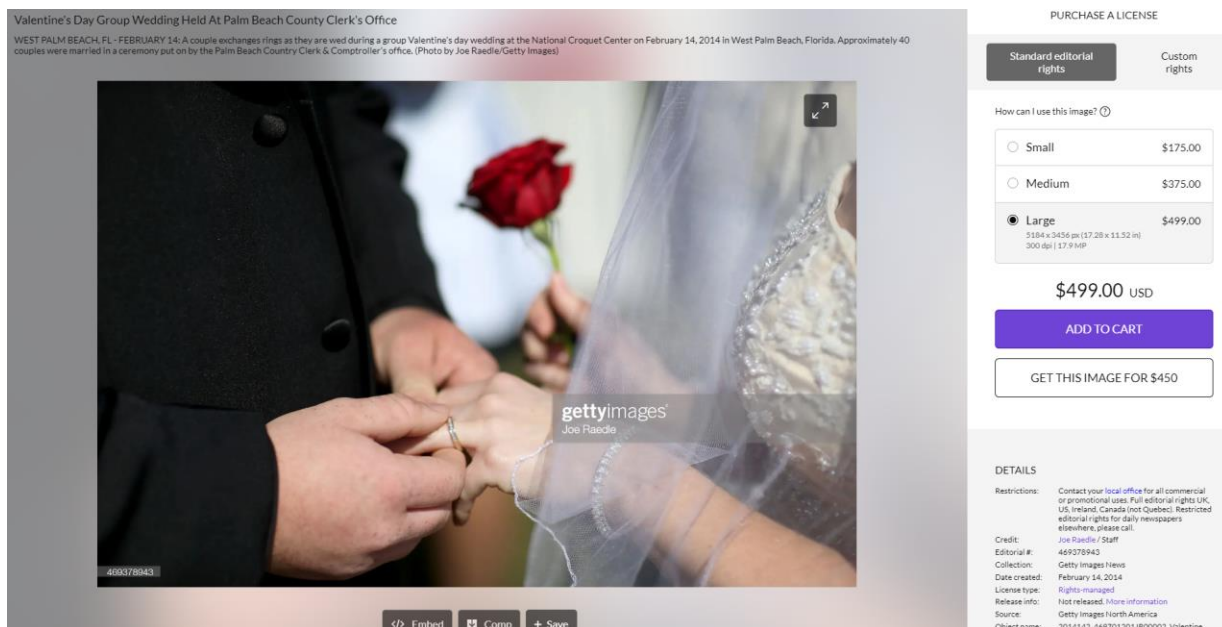
ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF

A. Getty Images, Its Extensive Collection, and Its Worldwide Reputation for Premium Visual Content

28. Getty Images is a preeminent global visual content creator and a leading source for visual content around the world. Getty Images operates websites for the purpose of licensing its works, including, *inter alia*, at www.gettyimages.com and www.istock.com. Its collection, which currently contains hundreds of millions of visual assets, is renowned worldwide for its unmatched depth, breadth, and quality. That visual content is included in a robust database (the “Database”) that also contains detailed, original text titles and captions associated with the individual photographs and rich, image-specific metadata to provide the highest quality user experience to customers and to ensure appropriate compensation for contributors and content partners.

29. By visiting Getty Images’ websites, its customers and potential customers can search and browse its collection before purchasing a license for specific content. For example, customers looking for an image from a wedding might search “a couple exchanges rings.” Among the search results, they might find the following image available for license with an accompanying title that reads, “Valentine’s Day Group Wedding Held at Palm Beach County Clerk’s Office,” a caption that reads, “A couple exchanges rings as they are wed during a group

Valentine's day wedding at the National Croquet Center on February 14, 2014 in West Palm Beach, Florida” and a photo credit that reads “(Photo by Joe Readle/Getty Images)”:¹



30. As the foregoing example reflects, the search results contain, in addition to images responsive to the search terms, watermarks on the images to deter infringing uses, credits and other metadata, and options for purchasing a license for further use.

31. Getty Images has more than 500,000 contributors (80,000 of which are exclusive to Getty Images), over 300 premium content partners, more than 115 staff photographers, videographers, and other content experts who guide and contribute to the creation of award-winning content, and a unique and comprehensive visual archive collection covering a broad range of subject matter. Contributors choose to work with Getty Images to benefit from its reputation and goodwill as a preminent content licensor, its robust platform, its global distribution network, and the royalty income Getty Images generates for them.

¹ <https://www.gettyimages.com/detail/news-photo/couple-exchanges-rings-as-they-are-wed-during-a-group-news-photo/469378943?phrase=a%20couple%20exchanges%20rings&adppopup=true>.

32. Getty Images' customers come to Getty Images for its easy-to-use platform, its comprehensive suite of content (including certain types of content for which authorized copies are exclusive to Getty Images), its variety of licensing options and services, and the assurance that the images they obtain from Getty Images will not infringe third-party copyrights.

B. Getty Images' Intellectual Property Rights and Terms of Use

1. Copyright

33. Most of the images and videos displayed on Getty Images' websites are original, creative works that enjoy protection under U.S. copyright laws. For many of these visual assets, including all of the assets subject to the copyright infringement claims at issue in this action, Getty Images either owns the copyright or is an exclusive licensee; for others, Getty Images is a non-exclusive licensee.

34. For purposes of the copyright infringement claims set forth herein and establishing the unlawful nature of Stability AI's conduct, Getty Images has selected 7,216 examples from the millions of images that Stability AI copied without permission and used to train one or more versions of Stable Diffusion. The copyrights for each of these images (as well as for many other images) have been registered with the U.S. Copyright Office. A list of these works, together with their copyright registration numbers, is attached as Exhibit A.

35. As noted above, for the images displayed on its websites, Getty Images also typically provides a detailed corresponding title and caption. Image titles and captions, which are authored either by a Getty Images staff member or by an image contributor or partner, typically reflect originality and creative choices. For example, for the image below, the accompanying title reads, "Malnourished Sea Lions Continued To Be Rescued Off California Shores" and the accompanying caption reads: "A sick and malnourished sea lion pup sits in an

enclosure at the Marine Mammal Center on March 18, 2015 in Sausalito, California. For the third winter in a row, hundreds of sick and starving California sea lions are washing up on California shores, with over 1,800 found and treated at rehabilitation centers throughout the state since the beginning of the year. The Marine Mammal Center is currently caring for 224 of the emaciated pups.”²



36. Each of the images available through Getty Images’ websites has an associated page that contains a unique URL pointing to a location where the image is stored together with an “alt text” tag containing the image title and caption. The image URLs, titles, and captions, along with other current metadata for each image, such as keywords and author and ownership data, are populated from the Database.

² <https://www.gettyimages.com/detail/news-photo/sick-and-malnourished-sea-lion-pup-sits-in-an-enclosure-at-news-photo/466716732>

37. Getty Images has spent years coordinating and arranging the Database, including, *inter alia*, by setting criteria for inclusion of images, selecting specific images for inclusion, creating and incorporating detailed captions and other text paired with images, creating and assigning unique asset identifiers that can be linked to specific contributors, and arranging the contents of the Database so that the Database is searchable and results can be filtered. Additionally, Getty Images has and continues to invest significantly in maintaining the contents of the Database. Between 2017 and 2020 alone, Getty Images and its affiliates invested more than \$200 million to maintain the Database.

38. Getty Images has registered its copyright of the Database with the United States Copyright Office. The copyright registration number is TXu002346096.

2. Trademarks and Goodwill

39. Getty Images' name and trademarks are renowned in the U.S. and around the world. Customers perform over 2.7 billion searches annually on the Getty Images' websites, which exist in 23 languages. Through its full range of content solutions, Getty Images served over 836,000 purchasing customers in the last year alone, with customers from almost every country in the world, ranging from media outlets, advertising agencies, and corporations of all sizes to individual creators. Customers rely on Getty Images for the best content and service, and trust the trademarks and service marks associated with its content.

40. Since its founding in 1995, Getty Images has been using its name and associated trademarks in commerce continuously in connection with the distribution, promotion, and marketing of its services and visual content in the United States, including the uses described above. Getty Images has used its name and trademarks exclusively and extensively in the United

States and in Delaware, and its trademarks are widely recognized as representing premium quality visual content.

41. Getty Images uses its name and trademarks prominently on the Getty Images websites. Each image available for viewing and purchase prominently displays a watermark that contains an affiliated trademark, as illustrated in the images depicted in paragraphs 29 and 35 above.

42. Getty Images owns trademarks registered on the Principal Register in the United States Patent & Trademark Office (“USPTO”) relating to its iconic brand. True and correct copies of the federal registration certificates evidencing Getty Images’ ownership of the trademarks shown below are attached hereto as Exhibit B.

<u>Mark Name</u>	<u>Reg. Number</u>	<u>Reg. Date</u>
GETTY IMAGES	2,656,652	12/03/2002
GETTY IMAGES	2,837,208	04/27/2004
GETTY IMAGES	2,842,851	05/18/2004
GETTY IMAGES	2,844,647	05/25/2004
GETTY IMAGES	3,603,335	04/07/2009
GETTY IMAGES	4,968,996	05/31/2016
GETTY IMAGES	4,968,997	05/31/2016
GETTY IMAGES	5,200,414	05/09/2017

43. Getty Images also owns common law rights in the mark GETTY IMAGES. Together with Getty Images’ federally registered trademarks, these are referred to collectively as the “Getty Images Marks.”

3. Website Terms and Conditions

44. Stability AI accessed Getty Images’ collection of visual assets through Getty Images’ public-facing websites. The Getty Images websites from which Stability AI copied images without permission are subject to express terms and conditions of use which, among other things, expressly prohibit, *inter alia*: (i) downloading, copying or re-transmitting any or all

of the website or its contents without a license; and (ii) using any data mining, robots or similar data gathering or extraction methods. Such restrictions apply not only to the photographic images and videos that Getty Images licenses, but also to the valuable and proprietary title and caption information, keywords, and other metadata associated with the visual assets, all of which is highly desirable for use in connection with developing AI tools such as Stable Diffusion.

C. Stability AI Infringes Getty Images' Copyrights on an Enormous Scale and Exploits Getty Images' Resources for its Commercial Benefit

45. Upon information and belief, Stability AI was founded in 2020 and is engaged in the development of tools and models to generate digital content using artificial intelligence.

46. Stability AI created and maintains a model called Stable Diffusion. Upon information and belief, Stability AI utilizes the following steps from input to output:

- a. First, Stability AI copies billions of text-and-image pairings—like those available on Getty Images' websites—and loads them into computer memory to train a model.
- b. Second, Stability AI encodes the images, which involves creating smaller versions of the images that take up less memory. Separately, Stability AI also encodes the paired text. Stability AI retains and stores copies of the encoded images and text as an essential element of training the model.
- c. Third, Stability AI adds visual “noise” to the encoded images, *i.e.*, it further alters the images so that it is incrementally harder to discern what is visually represented because the images have been intentionally degraded in visual quality in order to “train” the model to remove the “noise.” By intentionally adding visual noise to the existing images with associated text, Stability AI teaches the model to generate output images to be consistent with a particular text description

(*e.g.*, “a dog playing on the beach during sunset”).

- d. Fourth, the model decodes the altered image and teaches itself to remove the noise by comparing the decoded image to the original image and text descriptions that have been copied and stored. By learning to decode noise, the model learns to deliver images similar to—and, in some cases, substantially similar to—the original without noise.

47. Upon information and belief, the third and fourth steps described in the preceding paragraph are part of “training” the model to allow Stable Diffusion to understand the relationships between text and associated images and to use that knowledge to computationally produce images in response to text prompts, as explained further below.

48. Stable Diffusion was trained on 5 billion image-text pairs from datasets prepared by non-party LAION, a German entity that works in conjunction with and is sponsored by Stability AI. Upon information and belief, Stability AI provided LAION with both funding and significant computing resources to produce its datasets in furtherance of Stability AI’s infringing scheme.

49. Upon information and belief, LAION created the datasets of image-text pairs used by Stability AI by scraping links to billions of pieces of content from various websites, including Getty Images’ websites.

50. Upon information and belief, Stability AI followed links included in LAION’s dataset to access specific pages on Getty Images’ websites and copied many millions of copyrighted images and associated text. Such copying was done without Getty Images’ authorization and in violation of the express prohibitions against such conduct contained in its websites’ terms of use.

51. Upon information and belief, Stability AI then created another copy of the content to encode it into a form its model could interpret.

52. Upon information and belief, Stability AI then created yet additional copies with visual noise added, while retaining encoded copies of the original images without noise for comparison to help train its model.

53. Upon information and belief, the unauthorized copies of Getty Images' content made by Stability AI are neither transitory nor ephemeral, and they were made with the express aim of enabling Stability AI to supplant Getty Images as a source of creative visual imagery.

54. To date, Getty Images has identified over 12 million links to images and their associated text and metadata on its websites contained in the LAION datasets that were used to train Stable Diffusion. Among the millions of links was a link to the photograph of the couple exchanging rings displayed in paragraph 29 above as well as to each of the other images identified in Exhibit A.

55. Getty Images' content is extremely valuable to the datasets used to train Stable Diffusion. Getty Images' websites provide access to millions of high quality images and a vast array of subject matter. High quality images such as those offered by Getty Images on its websites are more useful for training an AI model such as Stable Diffusion than low quality images because they contain more detail or data about the image that can be copied. By contrast, a low quality image, such as one that has been compressed and posted as a small thumbnail on a typical social media site, is less valuable because it only provides a rough, poor quality framework of the underlying image and may not be accompanied by detailed text or other useful metadata.

56. Stability AI has developed and released different versions of Stable Diffusion over time, including, upon information and belief, to users located in Delaware. The core dataset used to train Stable Diffusion version 2 was a subset of LAION 5B called LAION-Aesthetics,³ which was created to exclude images that were not sufficiently aesthetically pleasing.⁴ Targeting its copying in this way allowed Stability AI to further benefit from Getty Images' efforts over many years to amass its renowned collection of high quality images and from the significant investments required to generate such a collection and to develop and maintain the Database in which it is stored.

57. Second, Getty Images' websites include both the images and corresponding detailed titles and captions and other metadata. Upon information and belief, the pairings of detailed text and images has been critical to successfully training the Stable Diffusion model to deliver relevant output in response to text prompts. If, for example, Stability AI ingested an image of a beach that was labeled "forest" and used that image-text pairing to train the model, the model would learn inaccurate information and be far less effective at generating desirable outputs in response to text prompts by Stability AI's customers. Furthermore, in training the Stable Diffusion model, Stability AI has benefitted from Getty Images' image-text pairs that are not only accurate, but detailed. For example, if Stability AI ingested a picture of Lake Oroville in California during a severe drought with a corresponding caption limited to just the word "lake," it would learn that the image is of a lake, but not which lake or that the photograph was taken during a severe drought. If a Stable Diffusion user then entered a prompt for "California's Lake Oroville during a severe drought" the output image might still be one of a lake, but it would

³ <https://stability.ai/blog/stable-diffusion-announcement>.

⁴ <https://laion.ai/projects/>.

be much less likely to be an image of Lake Oroville during a severe drought because the synthesis engine would not have the same level of control that allows it to deliver detailed and specific images in response to text prompts.

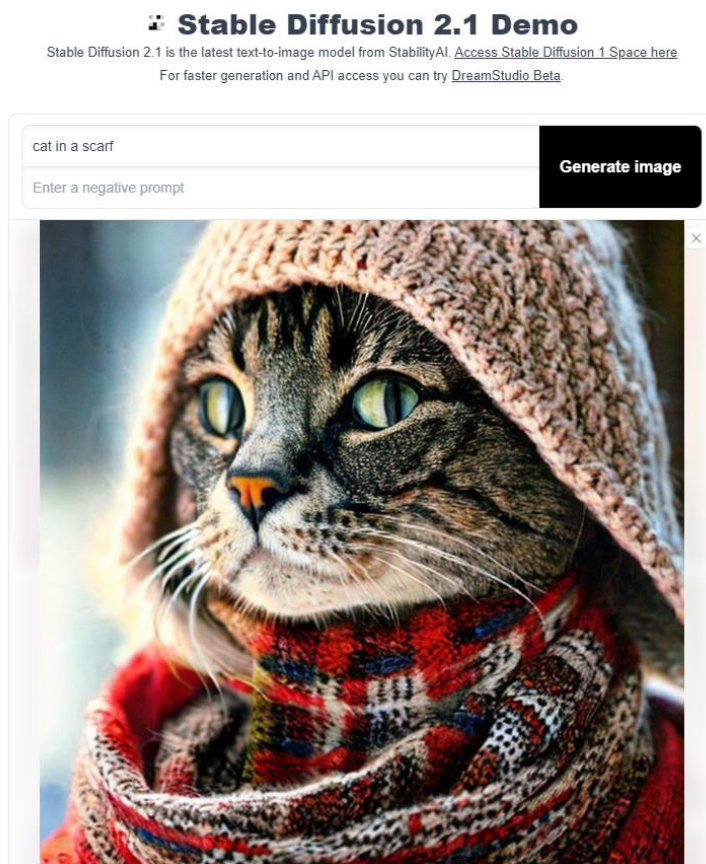
58. Upon information and belief, when Stability AI ingested the image below of Lake Oroville with a corresponding caption that reads “A section of Lake Oroville is seen nearly dry on August 19, 2014 in Oroville, California. As the severe drought in California continues for a third straight year, water levels in the State's lakes and reservoirs is reaching historic lows. Lake Oroville is currently at 32 percent of its total 3,537,577 acre feet,”⁵ its use of the accompanying text enabled the model to learn even more about the image and its contents and thus generate output that competes with Getty Images’ own offerings much more effectively.



⁵ <https://www.gettyimages.com/detail/news-photo/section-of-lake-oroville-is-seen-nearly-dry-on-august-19-news-photo/453834006>

D. Stability AI Competes Commercially with Getty Images

59. Once an artificial intelligence model like Stable Diffusion has been trained on enough data to learn the relationship between text prompts and images, it can be used to generate new images derived from the images and text the model’s creator has copied. For example, if a model has been trained with image-text pairs of cats and image-text pairs of clothing, then a user can use the text prompt “cat in a scarf” and the model will generate an image that looks like a cat in a scarf:



60. To be clear, the image above is not a photograph of an actual cat wearing an actual scarf. It is a computer-synthesized image that *resembles* a cat wearing a scarf. Upon information and belief, Stability AI was able to generate the image above because it used enough images of real cats paired with rich text captions and images of real scarves with rich text

captions to train Stable Diffusion that the model can generate this type of output. Stable Diffusion is able to combine what it has learned to generate this artificial image, but only because it was trained on proprietary content belonging to Getty Images and others.

61. As a result, Stable Diffusion at times produces images that are highly similar to and derivative of the Getty Images proprietary content that Stability AI copied extensively in the course of training the model. Indeed, independent researchers have observed that Stable Diffusion sometimes memorizes and regenerates specific images that were used to train the model.⁶

62. In many cases, and as discussed further below, the output delivered by Stability AI includes a modified version of a Getty Images watermark, underscoring the clear link between the copyrighted images that Stability AI copied without permission and the output its model delivers. In the following example, the image on the left is another original, watermarked image copied by Stability AI and used to train its model and the watermarked image on the right is output delivered using the model:

⁶ See, e.g., Nicholas Carlini et al., *Extracting Training Data from Diffusion Models* (2023), <https://arxiv.org/pdf/2301.13188.pdf>; see also Gowthami Somepalli et al., *Diffusion Art or Digital Forgery? Investigating Data Replication in Diffusion Models* (2022), <https://arxiv.org/pdf/2212.03860.pdf>.



63. Upon information and belief, Stability AI offers Stable Diffusion as open source software, meaning that Stability AI permits third party developers to access, use, and further develop the model without paying license fees to Stability AI. Those third parties benefit from Stability AI's infringement of Getty Images' copyrights and, in turn, Stability AI benefits from the widespread adoption of its model.

64. While Stability AI has made Stable Diffusion open source, Stability AI is also directly monetizing the tool through a commercial platform it calls DreamStudio. DreamStudio allows customers to access Stable Diffusion to generate images without the need for any of their own heavy-duty processing power, software installation, or coding knowhow. According to Mr. Mostaque, Stability AI plans to further monetize Stable Diffusion by training and deploying customized, non-open source versions of Stable Diffusion for customers for use on a large scale,

and Stability AI reportedly was valued at \$1 billion by late 2022 and is seeking additional funding at a valuation of approximately \$4 billion.⁷

65. Upon information and belief, although Stability AI only released DreamStudio in August 2022, millions of people already have used DreamStudio and collectively created hundreds of millions of images. Yet Stability AI has not paid a cent to Getty Images or other content owners from which it reproduced copyrighted content without permission to train its highly lucrative model.

66. The gravity of Stability AI's brazen theft and freeriding is compounded by the fact that, by utilizing Getty Images' copyrighted content for artificial intelligence and machine learning, Stability AI is stealing a service that Getty Images already provides to paying customers in the marketplace for that very purpose. Getty Images has licensed millions of suitable digital assets for a variety of purposes related to artificial intelligence and machine learning in a manner that respects personal and intellectual property rights. While Getty Images licenses its proprietary content to responsible actors in appropriate circumstances, Stability AI has taken that same content from Getty Images without permission, depriving Getty Images and its contributors of fair compensation, and without providing adequate protections for the privacy and dignity interests of individuals depicted.

E. Stability AI's Attempts to Circumvent Getty Images' Watermarks

67. As noted in paragraph 41 above, each copyrighted image on Getty Images' public-facing websites contains a watermark that is intended to indicate provenance and prevent

⁷ <https://techcrunch.com/2022/10/17/stability-ai-the-startup-behind-stable-diffusion-raises-101m/>; <https://fortune.com/2023/03/04/stability-ai-raise-funds-4-billion-valuation-artificial-intelligence-captivates-investors/>.

infringement. The watermark includes both a Getty Images-owned mark and credit information for the image.

68. Upon information and belief, Stability AI has knowingly removed Getty Images' watermarks from some images in the course of its copying as part of its infringing scheme. At the same time, however, as discussed above, the Stable Diffusion model frequently generates output bearing a modified version of the Getty Images watermark, even when that output is not bona fide Getty Images' content and is well below Getty Images' quality standards. Examples of this practice include:





69. Making matters worse, Stability AI has caused the Stable Diffusion model to incorporate a modified version of the Getty Images' watermark to bizarre or grotesque synthetic imagery that tarnishes Getty Images' hard-earned reputation, such as the image below:



70. Upon information and belief, Stability AI is well aware that Stable Diffusion generates images that include distorted versions of Getty Images' watermark and other watermarks, but it has not modified its model to prevent that from happening.

71. Upon information and belief, unless enjoined by this Court, Stability AI intends to continue to infringe upon Getty Images' copyrights and trademarks in the United States and otherwise to profit from its unauthorized use of Getty Images' intellectual property. Getty Images has no adequate remedy at law to redress all of the injuries that Stability AI has caused, and intends to continue to cause, by its conduct. Getty Images will continue to suffer irreparable harm until Stability AI's infringing conduct is enjoined by this Court.

CLAIM I

Copyright Infringement (17 U.S.C. § 101 *et seq.*)

72. Getty Images realleges and incorporates by reference herein the allegations set forth in paragraphs 1 through 71 above.

73. Getty Images is the owner or exclusive licensee of copyrights identified in Exhibit A, and therefore is entitled to the exclusive rights under copyright law associated therewith, including the rights set forth in 17 U.S.C § 106.

74. Getty Images has obtained copyright registrations in the United States for each of the works identified in Exhibit A.

75. Getty Images is the owner of, and has obtained a U.S. copyright registration for, the Database.

76. Stability AI obtained access to the registered images and the associated titles, captions, and other metadata in the Database through Getty Images' websites.

77. By and through the actions alleged above, Stability AI has infringed and will continue to infringe Getty Images' copyrights in the United States by, *inter alia*, reproducing Getty Images' copyrighted works and creating derivative works therefrom without any authorization from Getty Images.

78. Stability AI's acts of copyright infringement have been intentional, willful, and in callous disregard of Getty Images' rights. Stability AI knew at all relevant times that the content on Getty Images' websites is copyrighted, that Getty Images is in the business of licensing visual content, and that its acts were in violation of the terms of use of Getty Images' websites.

79. Stability AI engaged in the infringing acts described herein for its own commercial benefit.

80. As a direct and proximate result of Stability AI's wrongful conduct, Getty Images has been substantially and irreparably harmed in an amount not readily capable of determination and, unless permanently enjoined from further acts of infringement and continuing to use and distribute Stable Diffusion models trained using Getty Images' copyrighted content without permission, Stability AI will cause additional irreparable harm for which there is no adequate remedy at law. Getty Images is thus entitled to permanent injunctive relief preventing Stability AI, its agents, affiliates, employees and all persons acting in concert with it from engaging in any further infringement of Getty Images' content.

81. Getty Images is further entitled to recover from Stability AI the damages it has sustained and will sustain as a result of the infringing acts alleged above, together with any additional profits obtained by Stability AI. The amount of such damages and profits cannot be fully ascertained by Getty Images at present but will be established according to proof at trial.

82. For any infringing acts in the United States occurring after registration of the applicable Getty Images' copyrights, Getty Images is entitled, at its election, as an alternative to an award of actual damages and any additional profits earned by Stability AI, to recover statutory damages of up to \$150,000 for each infringed work.

83. Getty Images is entitled to recover its full costs in prosecuting its copyright infringement claims in this action and its attorneys' fees.

CLAIM II

Providing False Copyright Management Information in Violation of 17 U.S.C. § 1202(a)

84. Getty Images realleges and incorporates by reference herein the allegations set forth in paragraphs 1 through 83 above.

85. The watermarks that Getty Images applies to images made available on its public-facing websites constitute copyright management information for purposes of Section 1202 of the Copyright Act, 17 U.S.C. § 1202.

86. By applying a modified version of Getty Images' watermarks to output generated through use of Stable Diffusion and the DreamStudio interface, Stability AI has provided false copyright management information in violation of 17 U.S.C. § 1202(a). Stability AI's provision of false copyright management information has been done knowingly and with the intent to induce, enable, facilitate, or conceal infringement of Getty Images' copyrights.

87. As a direct and proximate result of Stability AI's wrongful conduct, Getty Images has been substantially and irreparably harmed in an amount not readily capable of determination and, unless permanently enjoined from further acts of providing false copyright management information, Stability AI will cause additional irreparable harm for which there is no adequate remedy at law. Getty Images is thus entitled to permanent injunctive relief preventing Stability

AI, its agents, affiliates, employees and all persons acting in concert with it from providing false copyright management information.

88. Getty Images is further entitled to recover from Stability AI the damages it has sustained and will sustain as a result of the unlawful acts alleged above, together with any additional profits obtained by Stability AI. The amount of such damages and profits cannot be fully ascertained by Getty Images at present but will be established according to proof at trial.

89. Getty Images is entitled, at its election, as an alternative to an award of actual damages and any additional profits earned by Stability AI, to recover statutory damages of up to \$25,000 for each violation of Section 1202(a).

90. Getty Images is entitled to recover its full costs and attorneys' fees in prosecuting its claims under Section 1202(a).

CLAIM III

Removal or Alteration of Copyright Management Information in Violation of Section 1202(b)

91. Getty Images realleges and incorporates by reference herein the allegations set forth in paragraphs 1 through 90 above.

92. Stability AI has intentionally removed or altered Getty Images' watermarks and metadata associated with the images Stability AI impermissibly copied from Getty Images' websites. Such watermarks and metadata contain copyright management information. Stability AI's removal or alteration of Getty Images' copyright management information has been done knowingly and with the intent to induce, enable, facilitate, or conceal infringement of Getty Images' copyrights.

93. As a direct and proximate result of Stability AI's wrongful conduct, Getty Images has been substantially and irreparably harmed in an amount not readily capable of determination

and, unless permanently enjoined from further acts of removing or altering copyright management information, Stability AI will cause additional irreparable harm for which there is no adequate remedy at law. Getty Images is thus entitled to permanent injunctive relief preventing Stability AI, its agents, affiliates, employees and all persons acting in concert with it from removing or altering Getty Images' copyright management information.

94. Getty Images is further entitled to recover from Stability AI the damages it has sustained and will sustain as a result of the unlawful acts alleged above, together with any additional profits obtained by Stability AI. The amount of such damages and profits cannot be fully ascertained by Getty Images at present but will be established according to proof at trial.

95. Getty Images is entitled, at its election, as an alternative to an award of actual damages and any additional profits earned by Stability AI, to recover statutory damages of up to \$25,000 for each violation of Section 1202(b).

96. Getty Images is entitled to recover its full costs and attorneys' fees in prosecuting its claims under Section 1202(b).

CLAIM IV

Trademark Infringement in Violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114(1)

97. Getty Images realleges and incorporates by reference herein the allegations set forth in paragraphs 1 through 96 above.

98. Getty Images has expended substantial time, money, and resources collecting, distributing, promoting, marketing, and advertising the millions of images it offers on its websites and the Getty Images Marks associated therewith.

99. The Getty Images Marks are in full force and effect. Getty Images has never abandoned them, nor has Getty Images ever abandoned the goodwill of its businesses in

connection thereto. For example, Getty Images continues to use and prominently display Getty Images Marks on its websites, as well as on and in connection with the many millions of images it offers. Getty Images intends to continue to preserve and maintain its rights with respect to the Getty Images Marks.

100. The Getty Images Marks are distinctive and have become associated in the minds of the public with Getty Images, its brand, and its reputation for high-quality visual content.

101. The Getty Images Marks and the goodwill of the business associated with them in the United States are of great and significant value to Getty Images.

102. Getty Images' use of the Getty Images Marks and Stability AI's infringing uses of the same marks are in competitive proximity to one another, as they are both used in connection with, *inter alia*, the marketplace for visual content.

103. Stability AI's unauthorized use of Getty Images Marks in connection with synthetic images generated through the use of Stable Diffusion and DreamStudio constitutes trademark infringement in violation of Section 32 of the Lanham Act, 15 U.S.C § 1114(1), as such use likely has caused and will continue to cause members of the consuming public to be confused, mistaken or deceived into believing that Getty Images has granted Stability AI the right to use the Getty Images Marks and/or that Getty Images sponsored, endorsed, or is otherwise associated, affiliated, or connected with Stability AI and its synthetic images, all to the damage and detriment of Getty Images' reputation and good will.

104. Upon information and belief, Stability AI is and has been at all relevant times aware of Getty Images' prior use, and/or ownership of the Getty Images Marks. Thus, Stability AI's conduct, as described above, is willful, intentional, in bad faith, and designed specifically to

permit Stability AI to profit from such misuse in violation of Getty Images' rights in the Getty Images Marks.

105. As a direct and proximate result of Stability AI's wrongful conduct, Getty Images has been substantially and irreparably harmed in an amount not readily capable of determination and, unless permanently enjoined from further acts of trademark infringement, Stability AI will cause additional irreparable harm for which there is no adequate remedy at law. Getty Images is thus entitled to permanent injunctive relief preventing Stability AI, its agents, affiliates, employees and all persons acting in concert with it from infringing the Getty Images Marks.

106. Getty Images is further entitled to recover from Stability AI the damages it has sustained and will sustain as a result of the unlawful acts alleged above, together with the profits obtained by Stability AI. The amount of such damages and profits cannot be fully ascertained by Getty Images at present but will be established according to proof at trial.

107. Getty Images is entitled to recover treble damages or profits, whichever is greater, for Stability AI's use of a counterfeit mark.

108. Getty Images is entitled, at its election, as an alternative to an award of actual damages and profits earned by Stability AI, to recover statutory damages of up to \$2,000,000 per counterfeit mark used.

109. Getty Images is entitled to recover its full costs and attorneys' fees in prosecuting its claims for trademark infringement.

CLAIM V

Unfair Competition in Violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)

110. Getty Images realleges and incorporates by reference herein the allegations set forth in paragraphs 1 through 109 above.

111. Stability AI's unauthorized use of the Getty Images Marks in the United States in connection with synthetic images generated through the use of Stable Diffusion and DreamStudio constitutes unfair competition and false designation of origin in violation of Section 43(a) of the Lanham Act, 15 U.S.C § 1125(a), as such use likely has caused and will continue to cause members of the consuming public to be confused, mistaken or deceived into believing that Getty Images has granted Stability AI the right to use the Getty Images Marks and/or that Getty Images sponsored, endorsed, or is otherwise associated, affiliated, or connected with Stability AI and its synthetic images, all to the damage and detriment of Getty Images' reputation and good will.

112. Upon information and belief, Stability AI is and has been at all relevant times aware of Getty Images' prior use, and/or ownership of the Getty Images Marks. Thus, Stability AI's conduct, as described above, is willful, intentional, in bad faith, and designed specifically to permit Stability AI to profit from such misuse in violation of Getty Images' rights in the Getty Images Marks.

113. As a direct and proximate result of Stability AI's wrongful conduct, Getty Images has been substantially and irreparably harmed in an amount not readily capable of determination and, unless permanently enjoined from further acts of trademark infringement, Stability AI will cause additional irreparable harm for which there is no adequate remedy at law. Getty Images is thus entitled to permanent injunctive relief preventing Stability AI, its agents, affiliates, employees and all persons acting in concert with it from competing unfairly with Getty Images.

114. Getty Images is further entitled to recover from Stability AI the damages it has sustained and will sustain as a result of the unlawful acts alleged above, together with the profits

obtained by Stability AI. The amount of such damages and profits cannot be fully ascertained by Getty Images at present but will be established according to proof at trial.

115. Getty Images is entitled to recover treble damages or profits, whichever is greater, for Stability AI's use of a counterfeit mark.

116. Getty Images is entitled, at its election, as an alternative to an award of actual damages and profits earned by Stability AI, to recover statutory damages of up to \$2,000,000 per counterfeit mark used.

117. Getty Images is entitled to recover its full costs and attorneys' fees in prosecuting its claims for unfair competition and false designation of origin.

CLAIM VI

Trademark Dilution in Violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c)

118. Getty Images realleges and incorporates by reference herein the allegations set forth in paragraphs 1 through 117 above.

119. The Getty Images Marks are distinctive and famous.

120. Stability AI has used the Getty Images Marks in commerce in the United States, and Stability AI's commercial use of the Getty Images Marks commenced after those marks became famous.

121. Stability AI's use of the Getty Images Marks on lower quality, and in some cases bizarre or grotesque images, dilutes the quality of the Getty Images Marks by blurring or tarnishment. Upon information and belief, Stability AI's use of the Getty Images Marks on lower quality, and in some cases bizarre or grotesque images, has been and continues to be knowing, willful, and in bad faith.

122. Stability AI's unauthorized use of the Getty Images Marks in connection with lower quality synthetic images generated through the use of Stable Diffusion and DreamStudio constitutes trademark dilution in violation of Section 43(c) of the Lanham Act, 15 U.S.C § 1125(c).

123. As a direct and proximate result of Stability AI's wrongful conduct, Getty Images has been substantially and irreparably harmed in an amount not readily capable of determination and, unless permanently enjoined from further acts of trademark dilution, Stability AI will cause additional irreparable harm for which there is no adequate remedy at law. Getty Images is thus entitled to permanent injunctive relief preventing Stability AI, its agents, affiliates, employees and all persons acting in concert with it from diluting the Getty Images Marks.

124. Getty Images is further entitled to recover from Stability AI the damages it has sustained and will sustain as a result of the unlawful acts alleged above, together with the profits obtained by Stability AI. The amount of such damages and profits cannot be fully ascertained by Getty Images at present but will be established according to proof at trial.

125. Getty Images is entitled to recover its full costs and attorneys' fees in prosecuting its claims for trademark dilution.

CLAIM VII

Deceptive Trade Practices in Violation of Delaware's Uniform Deceptive Trade Practices Act

126. Getty Images realleges and incorporates by reference herein the allegations set forth in paragraphs 1 through 125 above.

127. Stability AI's unauthorized use of the Getty Images Marks in connection with synthetic images generated through the use of Stable Diffusion and DreamStudio constitutes a deceptive trade practice in violation of Delaware law, as such use likely has caused and will

continue to cause members of the consuming public, including in Delaware, to be confused, mistaken or deceived into believing that Getty Images has granted Stability AI the right to use the Getty Images Marks and/or that Getty Images sponsored, endorsed, or is otherwise associated, affiliated, or connected with Stability AI and its synthetic images, all to the damage and detriment of Getty Images' reputation and good will.

128. Upon information and belief, Stability AI is and has been at all relevant times aware of Getty Images' prior use, and/or ownership of the Getty Images Marks. Thus, Stability AI's conduct, as described above, is willful, intentional, in bad faith, and designed specifically to permit Stability AI to profit from such misuse in violation of Getty Images' rights in the Getty Images Marks.

129. As a direct and proximate result of Stability AI's wrongful conduct, Getty Images has been substantially and irreparably harmed in an amount not readily capable of determination and, unless permanently enjoined from further deceptive acts, Stability AI will cause additional irreparable harm for which there is no adequate remedy at law. Getty Images is thus entitled to permanent injunctive relief preventing Stability AI, its agents, affiliates, employees and all persons acting in concert with it from engaging in deceptive trade practices.

130. Getty Images is further entitled to recover from Stability AI treble the damages it has sustained and will sustain as a result of Stability AI's acts in violation of Delaware law. The amount of such damages cannot be fully ascertained by Getty Images at present but will be established according to proof at trial.

131. Getty Images is entitled to recover its full costs and attorneys' fees in prosecuting its claims for deceptive trade practices.

CLAIM VIII

Trademark Dilution in Violation of Section 3313 of the Delaware Trademark Act

132. Getty Images realleges and incorporates by reference herein the allegations set forth in paragraphs 1 through 131 above.

133. The Getty Images Marks are distinctive and famous.

134. Stability AI has used the Getty Images Marks in commerce, and Stability AI's commercial use of the Getty Images Marks commenced after those marks became famous.

135. Stability AI's use of the Getty Images Marks on lower quality, and in some cases bizarre or grotesque images, dilutes the quality of the Getty Images Marks by blurring or tarnishment. Upon information and belief, Stability AI's use of Getty Images Marks on lower quality, and in some cases bizarre or grotesque images, has been and continues to be knowing, willful, and in bad faith.

136. Stability AI's unauthorized use of the Getty Images Marks in connection with lower quality synthetic images generated through the use of Stable Diffusion and DreamStudio constitutes trademark dilution in violation of Section 3313 of the Delaware Trademark Act.

137. As a direct and proximate result of Stability AI's wrongful conduct, Getty Images has been substantially and irreparably harmed in an amount not readily capable of determination and, unless permanently enjoined from further acts of trademark dilution, Stability AI will cause additional irreparable harm for which there is no adequate remedy at law. Getty Images is thus entitled to permanent injunctive relief preventing Stability AI, its agents, affiliates, employees and all persons acting in concert with it from diluting the Getty Images Marks.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Getty Images respectfully requests judgment in its favor and against Defendants Stability AI as follows:

- A. Finding that Stability AI has infringed Getty Images' copyrights;
- B. Finding that Stability AI's copyright infringement was willful;
- C. Finding that Stability AI has provided false copyright management information;
- D. Finding that Stability AI has removed or altered copyright management information;
- E. Finding that Stability AI has infringed Getty Images' trademarks;
- F. Finding that Stability AI has diluted Getty Images' trademarks;
- G. Finding that Stability AI has tarnished Getty Images' trademarks;
- H. Finding that Stability AI's trademark infringement, unfair competition, trademark dilution, and deceptive trade practices were willful and in bad faith;
- I. Finding that there is a substantial likelihood that Stability AI will continue to infringe Getty Images copyrights and trademarks unless enjoined from doing so;
- J. Issuing a permanent injunction enjoining Stability AI and its agents, servants, employees, successors and assigns, and all persons, firms and corporations acting in concert with it, from directly or indirectly infringing Getty Images' copyrights, from providing false copyright management information, from removing or altering Getty Images' copyright management information, and from infringing, diluting, or tarnishing Getty Images' trademarks;
- K. Ordering the destruction of all versions of Stable Diffusion trained using Getty Images' content without permission;

- L. Ordering Stability AI to provide a full and complete accounting to Getty Images for Stability AI's profits, gains, advantages, and the value of the business opportunities received from its infringing acts;
- M. Entering judgment for Getty Images against Stability AI for all damages suffered by Getty Images and for any profits to or gain by Stability AI attributable to its infringement of Getty Images' copyrights and its acts in violation of 17 U.S.C. § 1202
- N. Entering judgment for Getty Images against Stability AI for all damages suffered by Getty Images for any profits to or gain by Stability AI attributable to its infringement and dilution of Getty Images trademark and its unfair competition and deceptive trade practices in amounts to be determined at trial, with the greater of such damages and profits trebled;
- O. Entering judgment for Getty Images for statutory damages for Stability AI's willful acts of copyright infringement, its provision of false copyright management information, and its removal or alteration of Getty Images' copyright management information;
- P. Entering judgment for Getty Images for statutory damages for Stability AI's willful acts of trademark infringement and unfair competition;
- Q. Awarding Getty Images its costs and reasonable attorneys' fees;
- R. Awarding Getty Images pre-judgment and post-judgment interest to the fullest extent available; and
- S. Granting such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff Getty Images demands a trial by jury on all issues so triable.

Dated: March 29, 2023

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