

1 KEKER, VAN NEST & PETERS LLP
2 DAVID SILBERT - #173128
3 dsilbert@keker.com
4 PAVEN MALHOTRA - #258429
5 pmalhotra@keker.com
6 BAILEY W. HEAPS - #295870
7 bheaps@keker.com
8 JULIA L. GREENBERG - #333864
9 jgreenberg@keker.com
633 Battery Street
San Francisco, CA 94111-1809
Telephone: 415 391 5400
Facsimile: 415 397 7188

Attorneys for Defendant
RUNWAY AI, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION – LOS ANGELES

EVOX PRODUCTIONS, LLC, a
Delaware limited liability company,

Plaintiff,

v.

STABILITY AI, INC., a Delaware
corporation; STABILITY AI LTD., a
UK corporation; STABILITY AI US
SERVICES CORPORATION, a
Delaware corporation; RUNWAY AI,
INC., a Delaware corporation;
HUGGING FACE, INC., a Delaware
corporation; DEVIANTART, INC., a
Delaware corporation; and DOES 1
through 10, inclusive,

Defendant.

Case No. 2:26-cv-07201-CAS-RAO

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
DEFENDANT RUNWAY AI, INC.'S
MOTION TO DISMISS
PLAINTIFF'S COMPLAINT**

Date: January 11, 2027
Time: 10:30 a.m.
Dept: Courtroom 8D, 8th Floor
Judge: Hon. Christina A. Snyder

Date Filed: July 2, 2026

Trial Date: Not Set

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendant Runway develops creative tools principally for moving images—tools used by filmmakers, visual-effects artists, videographers, and other creators to generate and manipulate video. Plaintiff EVOX operates in a different market: it licenses standardized still photographs of automobiles—shot at a fixed angle, camera height, and rotation against a white cyclorama—to dealerships and automotive portals.¹ Yet the Complaint repeatedly treats Runway as interchangeable with EVOX, and with Defendants Stability AI and DeviantArt, as though all made the same products and generated the same outputs. Its own exhibits show why that approach fails: every alleged Runway output differs from the corresponding EVOX photograph, and from the outputs attributed to other defendants, in the very features EVOX says define its protected expression.²

Count Two (direct copyright infringement for outputs) fails on the face of those side-by-side comparisons. EVOX claims protection only in a particular combination of choices, including a white cyclorama background; a camera height near the wheel wells; a precise degree of vehicle rotation; colorless reflections; soft-edged shadows; and windows treated to minimize reflection so the interior remains visible.³ But Runway’s alleged outputs use gray backgrounds (not white), visible floor planes and horizons (not a cyclorama), different angles and framing, and materially different lighting, reflections, and shadows.⁴ Because EVOX’s commercial product photos receive—at most—thin protection, those differences defeat substantial similarity as a matter of law.

Count Four (contributory copyright infringement) fails under the

¹ Compl. ¶¶ 17–19, 27–31.

² Compl. ¶¶ 79–80.

³ Compl. ¶¶ 21–24, 75–81.

⁴ See Compl. ¶¶ 79–80.

1 **Supreme Court’s decision in *Cox Communications, Inc. v. Sony Music***

2 ***Entertainment***. Under *Cox*, a service provider can be “contributorily liable” for a
3 user’s infringement “only if it ***intended*** that the provided service be used for
4 infringement,” shown through inducement or a service tailored to infringement. 607
5 U.S. 583, 592–93 (2026).⁵ EVOX identifies no third-party user who infringed any
6 EVOX photograph and no Runway statement or act encouraging any such
7 infringement. It instead relies on statements by ***Stability’s*** former CEO, Runway’s
8 release of a general-purpose tool, and Runway’s supposed failure to adopt filters.⁶
9 *Cox* forecloses that theory.

10 **Count Five (violation of the Digital Millennium Copyright Act) is**
11 **foreclosed by *Doe v. GitHub, Inc.*** Section 1202(b) requires removal or alteration
12 of copyright management information (“CMI”) from an existing work; it does not
13 reach a newly generated work that omits another work’s CMI. *Doe v. GitHub, Inc.*,
14 No. 24-7700, --- F.4th ----, 2026 WL 2728464, at *5–7 (9th Cir. Sep. 16, 2026).
15 The Complaint describes Runway’s tools as generating new images from prompts,
16 and its side-by-side comparisons confirm that the outputs are newly generated.⁷
17 Under *GitHub*, the absence of EVOX’s watermark or metadata from those
18 generated outputs is not “removal.” *See id.* at *5. The Complaint also alleges no
19 facts supporting scienter under either EVOX’s training or output DMCA theories,
20 and EVOX’s training theory fails for the additional reason that the Complaint
21 identifies no Runway act or process that removed CMI.⁸

22 **Count One (direct copyright infringement for model training) is time-**
23 **barred on the Complaint’s own allegations.** EVOX sued on July 2, 2026. It

24
25 ⁵ Unless otherwise indicated, emphasis in quotations has been added and internal
26 quotation marks and citations have been omitted.

27 ⁶ Compl. ¶¶ 128–31.

28 ⁷ Compl. ¶¶ 79–80.

⁸ Compl. ¶¶ 141–47.

1 alleges that by October 2022, the LAION datasets were public and searchable;
2 Stable Diffusion had been publicly released; Runway had publicly disclosed that its
3 latent-diffusion work used LAION; and many of the relevant dataset URLs
4 contained EVOX file names and led to images displaying the “© EVOX IMAGES”
5 mark.⁹ EVOX’s conclusory assertion that even with reasonable diligence it could
6 not have discovered the alleged copying until some unspecified point in July 2023¹⁰
7 cannot be reconciled with the public information the Complaint pleads—
8 particularly for a sophisticated licensor that says it has long used watermarks,
9 metadata, robots.txt instructions, and monitoring measures to detect unauthorized
10 use.¹¹

11 Ultimately, in addition to asserting an untimely direct infringement claim
12 based on model training (Count One), EVOX asks the Court to disregard the
13 numerous differences between its photographs and Runway’s alleged model
14 outputs (Count Two); infer copying from a new work’s failure to bear another’s
15 watermark (Count Five); and impute infringing intent based solely on Runway’s
16 participation in generative artificial intelligence (“AI”) (Count Four). Rule 12(b)(6)
17 does not permit the Court to do so. Counts One, Two, Four, and Five should be
18 dismissed as to Runway.

19 **II. FACTUAL BACKGROUND**

20 Runway was founded in 2018 by three New York University art students.¹² It
21 is a company built by creators to empower other creators to tell their stories and
22 express their ideas in new ways through video, audio, and other diverse media. The
23

24 ⁹ Compl. ¶¶ 38–60.

25 ¹⁰ Compl. ¶ 74.

26 ¹¹ Compl. ¶¶ 31–35.

27 ¹² Runway provides this overview for background and context, but acknowledges
28 that for purposes of this motion only, the Court must accept Plaintiff’s well-pleaded
allegations as true.

1 video-effects team behind Amazon Prime’s hit series House of David, for example,
2 used Runway’s tools to create blockbuster-caliber special effects, completing in
3 minutes tasks that previously consumed hours or days and saving more than five
4 months of post-production editing.¹³ Grammy-nominated musicians, independent
5 filmmakers, and other creators also rely on Runway. As an artist-founded and artist-
6 led company, Runway is dedicated to collaborating with, and developing tools for,
7 the creative community.

8 Unlike Runway, EVOX operates a commercial automotive photography
9 business.¹⁴ It licenses standardized photographs of vehicle makes and models to
10 automotive businesses, individually or by subscription.¹⁵ EVOX alleges that the
11 framing, placement, lighting, and other choices in those product photographs, taken
12 in combination, constitute protectable expression.¹⁶

13 EVOX’s claims against Runway trace to LAION-5B, a dataset of 5.85 billion
14 image-caption pairs released publicly in October 2022, as well as LAION-2B-en, a
15 subset of LAION-5B that contains two billion image-caption pairs (collectively, the
16 “LAION datasets”).¹⁷ EVOX contends that these datasets contain URL links to at
17 least 103,957 of EVOX’s copyrighted images of vehicles (the “Copyrighted
18 Photographs”).¹⁸ EVOX alleges that the LAION datasets were used to train Stable
19 Diffusion, an AI image-generation model first released by Defendants Stability AI,
20 Stability UK, and Stability US (collectively, the “Stability Defendants”) in August
21

22 ¹³ See “Customer Stories: How ‘House of David’ Used Runway to Become
23 Amazon’s Latest Hit Series” (Sep. 10, 2025), [https://runway.com/customers/how-](https://runway.com/customers/how-house-of-david-used-runway-to-become-amazons-latest-hit-series)
24 [house-of-david-used-runway-to-become-amazons-latest-hit-series](https://runway.com/customers/how-house-of-david-used-runway-to-become-amazons-latest-hit-series).

25 ¹⁴ Compl. ¶ 17.

26 ¹⁵ Compl. ¶¶ 19, 27–31.

27 ¹⁶ Compl. ¶¶ 21–24.

28 ¹⁷ Compl. ¶¶ 37–40.

¹⁸ Compl. ¶ 44; *id.* Ex. B.

2022.¹⁹ According to EVOX, Runway was “an essential research partner” in developing Stable Diffusion and also used the LAION datasets to train another model called “LDM-4.”²⁰

Based on these allegations, EVOX asserts four claims against Runway: direct infringement based on model training (the “Model Training Claim”) (Count One);²¹ direct infringement based on model outputs (the “Model Output Claim”) (Count Two);²² contributory infringement based on third parties’ use of Runway’s models (Count Four);²³ and violations of DMCA § 1202(b) based on alleged removal or alteration of CMI from the Copyrighted Photographs during model training (the “Training Theory”) and from model outputs (the “Output Theory”) (Count Five).²⁴

III. LEGAL STANDARD

A complaint must plead facts supporting a plausible claim, not labels, conclusions, or a formulaic recitation of elements. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555–57 (2007). The Court should not accept “as true allegations that contradict exhibits attached to the Complaint or matters properly subject to judicial notice, or allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable inferences.” *See Seven Arts Filmed Ent. Ltd. v. Content Media Corp. PLC*, 733 F.3d 1251, 1254 (9th Cir. 2013).

IV. ARGUMENT

Each claim against Runway fails the *Twombly* standard. Amendment would be futile because the defects arise from the Complaint’s own chronology and

¹⁹ Compl. ¶¶ 54, 57.

²⁰ Compl. ¶¶ 55, 58. For additional context, Runway notes that Stable Diffusion 1.5—the “Stable Diffusion” model referenced in the Complaint—is deprecated, as are the models derived from it.

²¹ *See* Compl. ¶¶ 89–100 (Count One).

²² Compl. ¶¶ 101–11.

²³ Compl. ¶¶ 122–37.

²⁴ Compl. ¶¶ 138–51.

exhibits, controlling law, or the absence of facts showing any misconduct. *See* Fed. R. Civ. P. 12(b)(6); *Leadsinger, Inc. v. BMG Music Pub.*, 512 F.3d 522, 532 (9th Cir. 2008).

A. Count One is time-barred.

Count One alleges that Runway reproduced the Copyrighted Photographs while training Stable Diffusion and other models (the “Model Training Claim”).²⁵

A copyright claim must be filed “within three years after [it] accrued.” 17 U.S.C. § 507(b). Under the discovery rule, EVOX’s claim accrued when EVOX discovered or reasonably should have discovered Runway’s alleged infringement. *See Petrella v. Metro-Goldwyn-Mayer, Inc.*, 572 U.S. 663, 671–72 (2014); *Media Rights Tech., Inc. v. Microsoft Corp.*, 922 F.3d 1014, 1022 (9th Cir. 2019).

Although the statute of limitations is an affirmative defense, dismissal under Rule 12(b)(6) is appropriate when, as here, untimeliness is apparent on the face of the Complaint. *See* Fed. R. Civ. P. 8(c)(1); *Huynh v. Chase Manhattan Bank*, 465 F.3d 992, 997 (9th Cir. 2006).

EVOX sued on July 2, 2026. Accordingly, EVOX’s Model Training Claim is time-barred if reasonable diligence would have revealed the alleged training use before July 2, 2023. The Complaint’s own allegations show that it would have: every essential component of the Model Training Claim—the nature of Runway’s AI models, the LAION datasets, and Runway’s alleged use of the LAION datasets to train its models—was public **by October 2022**.

Stable Diffusion was publicly released in **August 2022**.²⁶ And between **April and October 2022**, Runway allegedly publicly described its role in Stable Diffusion

²⁵ Compl. ¶¶ 89–100.

²⁶ *See* Compl. ¶¶ 54, 57 & n.6. The Court may consider the publicly available materials cited in the Complaint in deciding this Motion because EVOX expressly cites and relies on them; their authenticity is not disputed; and their relevance is not in question. *See Coto Settlement v. Eisenberg*, 593 F.3d 1031, 1038 (9th Cir. 2010) (collecting cases).

1 and publicly stated its image models were “trained on the LAION database.”²⁷ The
2 LAION datasets themselves were made public by **October 2022**.²⁸ Thus, more than
3 eight months before the statute of limitations cutoff, EVOX had public notice of the
4 models, the datasets used to train them, Runway’s alleged role, and the alleged
5 connection between them.

6 Paragraph 74’s concealment allegation does not excuse EVOX’s delay.²⁹
7 EVOX asserts that the downloads and training occurred inside Defendants’ systems
8 and that removal of CMI made the use harder to detect.³⁰ But Count One does not
9 depend on observing internal training steps (which EVOX has not observed to this
10 day, although it still managed to draft the Complaint). It depends on the public facts
11 that Runway used LAION, LAION contained links to EVOX images, and training
12 allegedly required following those links and downloading the linked images.³¹
13 Paragraph 74 does not explain why those facts could not have been investigated
14 before July 2023.

15 On the contrary, the Complaint confirms that the investigation was
16 straightforward. EVOX alleges that it found **more than 100,000** of its photographs
17 in the public LAION datasets (the Copyrighted Photographs).³² It further asserts
18 that “[m]any of the 103,957 URL links to the Copyrighted Photographs in the
19 LAION datasets also **contain the exact EVOX ‘file name’** for the Copyrighted
20 Photograph displayed at the link.”³³ EVOX—a sophisticated licensor that says it

21 ²⁷ See Compl. ¶¶ 55, 58 & n.7, 68 & n.12.

22 ²⁸ See Compl. ¶¶ 38, 39 & n.4.

23 ²⁹ See Compl. ¶ 74 (claiming EVOX “did not discover, and in the exercise of
24 reasonable diligence could not have discovered, Defendants’ unauthorized
25 reproduction and use of the Copyrighted Photographs until July 2023”).

26 ³⁰ Compl. ¶ 74.

27 ³¹ See Compl. ¶¶ 44, 58–59.

28 ³² See Compl. ¶¶ 44, 47; *id.* Ex. B.

³³ Compl. ¶ 47.

1 has long used watermarks, metadata, robots.txt instructions, and monitoring
2 measures to detect unauthorized use—offers no explanation for why it could not
3 have performed this same public search prior to July 2023—particularly when all of
4 the allegations lodged in its Complaint are based on materials in the public domain
5 (by October 2022) and nothing more.³⁴

6 Because the Complaint establishes that reasonable diligence would have
7 revealed the alleged Model Training Claim more than three years before the suit,
8 that claim is time-barred.

9 **B. Count Two fails because the pleaded works are not substantially**
10 **similar.**

11 Count Two alleges that Runway’s outputs are copies or derivative works of
12 EVOX’s photographs.³⁵ But the side-by-side comparisons that are incorporated into
13 the Complaint defeat that claim.

14 To state a claim, EVOX must plausibly allege that (1) it owns valid
15 copyrights in the Copyrighted Photographs; and (2) Runway copied protected
16 aspects of those images. *See Skidmore as Tr. for Randy Craig Wolfe Tr. v. Led*
17 *Zeppelin*, 952 F.3d 1051, 1064 (9th Cir. 2020).

18 EVOX’s claim fails at the first step. As explained in DeviantArt’s
19 concurrently filed motion to dismiss, which Runway incorporates by reference,
20 EVOX does not plausibly allege registrations for the six “Copyrighted
21 Photographs” in its side-by-side comparisons in paragraphs 79 and 80 of the
22 Complaint. None of the six EVOX photographs appear to be included in Exhibits B
23 or C of the Complaint, which EVOX contends contain a “complete list” of the
24 infringed photographs.³⁶ This threshold defect requires dismissal of Count Two.

25 Even if EVOX plausibly alleged valid copyrights in the six photographs (it

26 ³⁴ See, e.g., Compl. ¶¶ 32–36, 45.

27 ³⁵ Compl. ¶¶ 101–11.

28 ³⁶ Compl. ¶ 18.

1 did not), Count Two independently fails because the side-by-side comparisons
2 confirm that Runway did not copy protected aspects of those photographs. This
3 prong of the direct infringement analysis contains two components: “copying” and
4 “unlawful appropriation.” *Skidmore*, 952 F.3d at 1064. At the pleading stage,
5 EVOX must satisfy the “extrinsic test,” which “compares the objective similarities
6 of specific expressive elements in the two works.” *See id.* A court may perform that
7 comparison on a motion to dismiss when the works are incorporated into the
8 complaint and no reasonable juror could find the required similarity. *Rentmeester v.*
9 *Nike, Inc.*, 883 F.3d 1111, 1123 (9th Cir. 2018), *overruled in part on other grounds*
10 *by Skidmore*, 952 F.3d 1051 (9th Cir. 2018); *see also Woodland v. Hill*, 136 F.4th
11 1199, 1217 (9th Cir. 2025) (affirming Rule 12(b)(6) dismissal of direct-
12 infringement claim for lack of substantial similarity); *Kitsch LLC v. Viori Beauty*
13 *PBC*, No. 2:25-cv-10830, 2026 WL 1356424, at *6 (C.D. Cal. May 8, 2026)
14 (dismissing product-photograph claim at pleading stage for lack of similarity).

15 EVOX disclaims protection in the cars themselves (which comprise most of
16 each photograph) and in any individual element of the photo’s design. It claims
17 protection only in a **combination** of familiar product-photography conventions: a
18 white cyclorama background, a particular camera angle and height, lighting,
19 reflections, and shadows.³⁷ *See, e.g., Woodland*, 136 F.4th at 1210–11 (explaining
20 that for photographs, “[i]f sufficiently original, [only] the combination of subject
21 matter, pose, camera angle, etc., receives protection, not any of the individual
22 elements standing alone”).

23 That combination receives—at most—only “thin” copyright protection. *Ets-*
24 *Hokin v. Skyy Spirits, Inc.*, 323 F.3d 763, 766 (9th Cir. 2003). *Ets-Hokin* is directly
25 on point. It held that commercial product photographs of a vodka bottle received
26 only thin protection because the product and conventions of commercial
27 photography constrained the available expression. *Id.* The same is true here: there

28 ³⁷ *See* Compl. ¶¶ 75–81, 106–07.

1 are only so many ways to take a commercial stock photograph of a car. A consumer
2 in the market for a new vehicle, for instance, wants to see the *exact* vehicle she is
3 considering—not an artistic rendition of a similar car. The commercial conventions
4 that EVOX lists narrow the range of potential expressive choices; they do not
5 expand it.

6 Consistent with *Ets-Hokin*, courts have repeatedly applied the “thin
7 protection” doctrine to commercial or stock photographs like EVOX’s. *See, e.g.,*
8 *Milkcrate Athletics, Inc. v. Adidas America, Inc.*, 619 F. Supp. 3d 1009, 1018–19
9 (C.D. Cal. 2022) (collecting cases and concluding that plaintiff’s logo received only
10 thin protection because it “essentially consists of an arrangement of two everyday
11 objects”—a record and a milk crate—with a “narrow range of expression”). Indeed,
12 a court in this district has already applied *Ets-Hokin* to EVOX’s copyrighted
13 photographs of vehicles—the same photographs at issue here—and held that they
14 receive only “a ‘thin’ copyright.” *See EVOX Prods. LLC v. Kayak Software Corp.*,
15 No. 15-cv-5053, 2017 WL 5634856, at *10 (C.D. Cal. Jan. 20, 2017).

16 EVOX’s thin copyright “protects against only virtually identical copying.”
17 *See Ets-Hokin*, 323 F.3d at 766; *Kayak Software*, 2017 WL 5634856, at *10 (same).
18 Thus, even “subtle differences in lighting, camera angle, and background [are]
19 sufficient to render the defendant’s otherwise similar-looking photos . . . non-
20 infringing.” *Rentmeester*, 883 F.3d at 1120. The Complaint’s own side-by-side
21 comparisons show differences far greater than that.

22 Most prominently, for each of the six vehicles shown in paragraphs 79 and
23 80, the alleged Runway output uses a gray background with a visible floor or
24 horizon rather than EVOX’s white cyclorama background. Further, each of the
25 alleged Runway outputs features a reflective glare absent from the corresponding
26 EVOX photograph and depicts different lighting, angles, and shadows.³⁸ The
27 vehicle-specific details also differ. The “Audi Sportback Premium” model output,

28 ³⁸ *See* Compl. ¶¶ 79–80.

for example, is white rather than silver, and, unlike the corresponding Copyrighted Photograph, has a license plate, as well as different headlights and hubcaps.³⁹

EVOX Photograph of a 2021 Audi Sportback Premium



Runway “2021 Audi Sportback Premium” Model Output



The same is true across the other comparisons. The “Ford Explorer” output has different hubcaps, a different front end, and different side-view mirrors, in addition to a different background, a different angle, different reflections, and different shadows.⁴⁰ The “BMW Z4 Roadster” output depicts a white rather than silver vehicle and has different rear seats, different hubcaps, a different side panel, and different headlights.⁴¹ Likewise, in addition to the differences in background, reflection, and lighting, the “Nissan Leaf S Plus” and “Lexus UX 200” outputs have different headlights and hubcaps.⁴²

As in *Ets-Hokin*, the alleged Runway outputs “differ [from EVOX’s photographs] in as many ways as possible within the constraints of the commercial product shot.”⁴³ See 323 F.3d at 766. Even more fundamentally, as the side-by-side comparisons show, EVOX’s photographs and Runway’s alleged model outputs do not even depict the same *vehicle design*. That falls far short of the “virtually

³⁹ Compl. ¶ 80.

⁴⁰ See Compl. ¶ 79.

⁴¹ See Compl. ¶ 80.

⁴² See Compl. ¶ 80.

⁴³ Compl. ¶¶ 75–81, 106–07.

1 identical” standard required to survive dismissal. *See also Gray v. Perry*, No. 2:15-
2 cv-05642, 2020 WL 1275221, at *13 (C.D. Cal. Mar. 16, 2020) (defendants entitled
3 to judgment as a matter of law on direct infringement claim because the two
4 musical ostinatos were not virtually identical), *aff’d sub nom. Gray v. Hudson*, 28
5 F.4th 87 (9th Cir. 2022).

6 EVOX cannot save its claim by appealing to photographs that are not
7 depicted in the Complaint. Exhibits B and C list alleged training images, but the
8 Complaint pleads no allegedly infringing output pair beyond the six identified ones.
9 Tellingly, EVOX did not even disclose the prompts used to generate the alleged
10 Runway outputs featured in the side-by-side comparisons—presumably because it
11 deliberately crafted its prompts in an effort to generate close matches to the EVOX
12 photographs incorporated in the Complaint. But even these handpicked examples
13 are far from “virtually identical” in the combination of features over which EVOX
14 claims protection, warranting dismissal. *See, e.g., Klauber Bros., Inc. v. P.J.*
15 *Salvage*, No. 18-cv-5470, 2018 WL 6984817, at *6 (C.D. Cal. Oct. 30, 2018)
16 (dismissing direct infringement claim because the single “exemplar” side-by-side
17 comparison in complaint failed substantial similarity test as a matter of law).

18 Nor can EVOX avoid dismissal by calling the outputs “derivative works.” A
19 derivative-work theory still requires substantial similarity in protected expression.
20 *See, e.g., Litchfield v. Spielberg*, 736 F.2d 1352, 1357 (9th Cir. 1984) (collecting
21 cases). Because the incorporated works foreclose that showing, Count Two should
22 be dismissed without leave to amend.

23 **C. Count Four fails under *Cox*.**

24 Contributory liability requires direct infringement by a third party. *A&M*
25 *Records, Inc. v. Napster, Inc.*, 239 F.3d 1004, 1013 n.2 (9th Cir. 2001). To state a
26 claim, EVOX must show that Runway “(1) has knowledge of another’s
27 infringement and (2) . . . induces that infringement.” *Perfect 10, Inc. v. Visa Int’l*
28

1 *Serv. Ass’n*, 494 F.3d 788, 795 (9th Cir. 2007).⁴⁴ It must also show intent. “The
2 provider of a service is contributorily liable for the user’s infringement only if it
3 intended that the provided service be used for infringement.” *Cox*, 607 U.S. at 592–
4 93. “The intent required for contributory liability can be shown only if the party
5 induced the infringement or the provided service is tailored to that infringement.”
6 *Id.* at 593.

7 EVOX’s Complaint pleads none of these elements. It identifies no acts of
8 third-party infringement, no facts showing that Runway had knowledge of any such
9 infringement, and no facts showing that Runway intended to facilitate any
10 infringement.

11 **1. EVOX pleads no act of third-party infringement.**

12 EVOX identifies no user who used a Runway tool to reproduce any
13 Copyrighted Photograph. This alone is fatal. “The existence of direct infringement
14 is a necessary element of a claim for contributory infringement.” *Concord Music*
15 *Grp., Inc. v. Anthropic PBC*, No. 24-cv-03811, 2025 WL 1487988, at *3 (N.D. Cal.
16 Mar. 26, 2025) (cleaned up); *Stabile v. Paul Smith, Ltd.*, 137 F. Supp. 3d 1173,
17 1191 (C.D. Cal. 2015) (where “there is no direct infringement, there can be no . . .
18 contributory copyright infringement”).

19 EVOX alleges only “[o]n information and belief” that “third-party users have
20 in fact used” Runway “to reproduce, or to create works substantially similar to,” the
21 Copyrighted Photographs.⁴⁵ It identifies no user, no prompt, no output, and no

22
23 ⁴⁴ In *Cox*, the Supreme Court rejected the Fourth Circuit’s prior “material
24 contribution” theory as a viable basis for contributory liability. *See* 607 U.S. at 593;
25 *see also id.* at 597–99, 601–02 (Sotomayor, J., concurring); *see, e.g., Epidemic*
26 *Sound, AB v. Meta Platforms, Inc.*, 2026 WL 2021347, at *32–39 (N.D. Cal. July
27 13, 2026) (applying post-*Cox* analysis to contributory copyright infringement
28 claim). Any EVOX allegations that Runway “knowingly and materially
contributed” to infringement are thus irrelevant to its contributory infringement
claim. *See, e.g., Compl.* ¶¶ 126, 127, 130–31.

⁴⁵ *Compl.* ¶ 126.

1 photograph that was allegedly reproduced. *See Tarantino v. Gawker Media, LLC*,
2 No. 14-cv-603, 2014 WL 2434647, at *4 (C.D. Cal. Apr. 22, 2014) (dismissing
3 contributory infringement claim where the plaintiff failed to allege “the identity of a
4 single third-party infringer, the date, the time, or the details of a single instance of
5 third-party infringement”). This generic allegation on information and belief fails to
6 “nudge[] [the] claim[] across the line from conceivable to plausible.” *Twombly*, 550
7 U.S. at 570; *see also, e.g., Barnes v. Sanchez*, No. 25-cv-05901, 2026 WL 1912085,
8 at *5 (N.D. Cal. July 2, 2026) (dismissing contributory infringement claim where
9 allegations of third-party infringement “are entirely conclusory”); *Stabile*, 137 F.
10 Supp. 3d at 1191 (same). Count Four fails for this reason alone.

11 **2. EVOX pleads no knowledge of specific acts of infringement.**

12 To establish that Runway is contributorily liable for copyright infringement,
13 EVOX must also adequately plead that Runway “knew of the direct infringement”
14 by another. *Luvdarts, LLC v. AT&T Mobility LLC*, 710 F.3d 1068, 1072 (9th Cir.
15 2013). “Actual knowledge of specific acts of infringement”—not merely
16 “generalized knowledge. . . of the possibility of infringement”—is necessary. *Id.*
17 (holding that conclusory allegations were “plainly insufficient” to satisfy the
18 requirement).

19 The Complaint is bereft of *any* allegation that a user of Runway models
20 generated any EVOX copyrighted images, much less that Runway knew of such
21 actions. This alone is sufficient to dismiss the contributory infringement claim.

22 Merely alleging that models were trained on EVOX images is insufficient to
23 plead actual knowledge of “specific acts of infringement” by others. *Concord*
24 *Music Grp.*, 2025 WL 1487988, at *5 (“[T]he inclusion of protected lyrics in
25 Claude’s training corpus alone does not establish actual knowledge by Anthropic of
26 third-party infringement.”); *see also, e.g., Robinson v. Binello*, 771 F. Supp. 3d
27 1114, 1125 (N.D. Cal. 2025) (dismissing contributory infringement claim because
28 plaintiff “has not pleaded facts to show that [defendant] was aware” that recording

1 was copyrighted); *Michael Grecco Prods., Inc. v. TikTok, Inc.*, 829 F. Supp. 3d
2 793, 800 (C.D. Cal. 2025) (dismissing contributory infringement claim because
3 plaintiff failed to allege “actual knowledge of specific acts of infringement”).

4 Nor is it sufficient to allege that models *could* be used to create infringing
5 images. *Concord Music Grp.*, 2025 WL 1487988, at *5 (dismissing contributory
6 infringement claim where product “may be capable of substantial lawful as well as
7 unlawful uses” because “contributory liability does not automatically follow where
8 the technology arguably permits both”). Count Four fails for this reason as well.

9 **3. EVOX pleads no intent to facilitate infringement.**

10 Even if EVOX could identify direct infringement and Runway’s actual
11 knowledge of it, the claim would still fail because EVOX does not plead that
12 Runway intended its tools to be used for infringement.

13 Contributory liability requires intent to bring about another party’s
14 infringement. *Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913,
15 930, 936–37 (2005); *Cox*, 607 U.S. at 592–93 (“The provider of a service is
16 contributorily liable . . . only if it intended that the provided service be used for
17 infringement.”). In *Cox*, the Supreme Court clarified that the required intent exists
18 “only if the party [a] induced the infringement or [b] the provided service is tailored
19 to that infringement.” 607 U.S. at 593. “[M]ere knowledge that a service will be
20 used to infringe is insufficient,” as is “failure to take affirmative steps to prevent
21 infringement.” *Id.* at 594.

22 EVOX identifies no advertisement, instruction, or communication in which
23 Runway encouraged users to reproduce EVOX photographs. The only specific
24 statements are attributed to *Stability’s* former CEO—not any Runway employee or
25 representative.⁴⁶ EVOX does not allege a single statement by Runway encouraging
26 infringement, “such as by advertising an infringing use of its services.” *Lee v. SBS*
27 *Corp.*, No. 2:26-cv-03144, 2026 WL 2261023, at *5 (C.D. Cal. Aug. 5, 2026)

28 ⁴⁶ See Compl. ¶ 131 (quoting Emad Mostaque).

1 (collecting cases and dismissing contributory copyright claim); *see also, e.g.,*
2 *Barnes*, 2026 WL 1912085, at *6–7 (dismissing claim against YouTube because
3 Plaintiff “does not allege that YouTube intended that its service be used for
4 infringement . . . or that it induced infringement”).

5 Alleged knowledge that LAION contained copyrighted images does not
6 establish inducement. The Complaint alleges, at most, that Runway knew training
7 data included EVOX photographs and that its tools were capable of producing
8 infringing outputs.⁴⁷ But *Cox* holds that “mere knowledge” of infringing capability
9 or use is not intent to cause infringement. 607 U.S. at 594. Distributing such a
10 product, even for free, also does not constitute inducement. *See Perfect 10, Inc. v.*
11 *Amazon.com, Inc.*, 508 F.3d 1146, 1170 n.11 (9th Cir. 2007) (emphasis added)
12 (holding defendant did not induce infringement because it “ha[d] not promoted the
13 use of its [product] ***specifically to infringe copyrights***”); *VHT, Inc. v. Zillow Grp.,*
14 *Inc.*, 918 F.3d 723, 745–46 (9th Cir. 2019) (same for “generally applicable tools”).

15 EVOX’s allegation that Runway distributed its tools “with the object of
16 promoting” infringement⁴⁸ is nothing more than a “[t]hreadbare recital[] of the
17 elements of a cause of action,” which the Court must disregard. *Ashcroft v. Iqbal*,
18 556 U.S. 662, 678 (2009). And EVOX’s allegation that Runway failed to
19 implement filtering⁴⁹ is also foreclosed by *Cox*. A failure to take “affirmative steps
20 to prevent infringement” cannot establish contributory liability. 607 U.S. at 594.
21 This is true even if Runway ***knew*** that its tools were being “use[d] . . . to make
22 unauthorized copies of copyrighted material,” which EVOX does not allege. *Id.*

23 The alternative route to contributory liability under *Cox*—for services
24 “tailored to infringement”—is likewise unavailable. 607 U.S. at 593. “A service is
25 tailored to infringement if it is ‘not capable of ‘substantial’ or ‘commercially

26 ⁴⁷ Compl. ¶¶ 126, 129.

27 ⁴⁸ Compl. ¶ 131.

28 ⁴⁹ Compl. ¶ 131.

1 significant’ noninfringing uses.” *Id.* (quoting *Grokster*, 545 U.S. at 942 (Ginsburg,
2 J., concurring)); *SBS Corp.*, 2026 WL 2261023, at *5 (finding plaintiff failed to
3 state a contributory infringement claim where it failed to allege that “YouTube’s
4 service is incapable of substantial or commercially significant noninfringing uses”).
5 The Complaint does not allege that any Runway product meets this test.

6 On the contrary, EVOX concedes that Runway offers a “suite of products”
7 that are used by filmmakers, videographers, and other creators for purposes wholly
8 unrelated to EVOX’s automotive photographs.⁵⁰ Nothing suggests that these tools
9 are dedicated to generating copies of EVOX photographs, nor could EVOX
10 plausibly allege they are. That is insufficient to show that the service is “tailored to
11 infringement.” *Grokster*, 545 U.S. at 937 (“[M]ere knowledge of infringing
12 potential or of actual infringing uses would not be enough here to subject a
13 distributor to liability” where the product has substantial non-infringing uses.); *see*,
14 *e.g.*, *Art Records LLC v. YouTube LLC*, No. 25-cv-05069, 2026 WL 1669167, at *2
15 (N.D. Cal. June 9, 2026) (dismissing claim where “[i]t is undisputed that YouTube
16 has many other uses beyond its ability to host infringing content”).

17 Accordingly, Count Four should be dismissed.

18 **D. Count Five fails under the DMCA.**

19 EVOX advances two theories that Runway removed or altered CMI in
20 violation of § 1202(b) of the DMCA. Its “Training Theory” alleges that Runway
21 intentionally removed or altered CMI in the Copyrighted Photographs at some point
22 during the model training process.⁵¹ Its “Output Theory” alleges that, because
23 Runway’s models create “virtually identical copies of the Copyrighted Photographs
24 without any of EVOX’s CMI,” Runway must have intentionally removed or altered
25 that CMI.⁵² Neither states a claim.

26 ⁵⁰ Compl. ¶ 95.

27 ⁵¹ *See, e.g.*, Compl. ¶¶ 141–42, 145–47, 150.

28 ⁵² Compl. ¶¶ 141–42, 145–47, 150.

1 **1. EVOX’s Output Theory is foreclosed as a matter of law.**

2 “To state a claim under section 1202, plaintiffs must . . . allege that
3 defendants removed or altered CMI from copies of existing protected works;
4 merely alleging that a similar or derivative work does not include the CMI, without
5 facts showing its removal or alteration, is insufficient.” *Doe v. GitHub*, 2026 WL
6 2728464, at *5.

7 *GitHub* controls here. In that case, the plaintiffs, who published open-source
8 code on GitHub, alleged that defendants’ Copilot AI tool “sometimes returns
9 memorized training data” without “the source code’s CMI, and that in doing so
10 Copilot ‘removed’ or ‘altered’ CMI on copies of plaintiffs’ protected work, in
11 violation of section 1202(b)(1) and (3).” *See* 2026 WL 2728464, at *3 (cleaned up).
12 The Ninth Circuit definitively rejected that theory, holding that § 1202(b) requires
13 an “affirmative act [of removal or alteration] with respect to CMI connected to a
14 work that already exists.” *Id.* at *5. Because plaintiffs’ allegations showed that
15 Copilot was “best understood as learning from existing works and then creating
16 new works based on that learning process,” the Ninth Circuit held that even output
17 substantially similar to existing GitHub code could not plausibly be characterized
18 as a copy from which CMI had been removed or altered. *Id.* at *6–7.

19 As EVOX itself admits, Runway’s AI models are “image **generation** tools”
20 and “image **generators**.”⁵³ The numerous differences in the side-by-side
21 comparisons in the Complaint⁵⁴—as well as EVOX’s repeated characterization of
22 the models’ outputs as “derivative works”⁵⁵—confirm as much. That is, like
23 Copilot, and in contrast to “a traditional search engine, which . . . retrieves and
24 displays stored information,” Runway’s AI models learn from existing works and
25 then create new works, not copies of pre-existing works stripped of CMI. *See*

26 ⁵³ Compl. ¶¶ 67–68.

27 ⁵⁴ *See* Compl. ¶¶ 79–80.

28 ⁵⁵ *See, e.g.*, Compl. ¶ 142.

1 *GitHub*, 2026 WL 2728464, at *6–7. As in *GitHub*, the absence of EVOX CMI
2 from Runway’s outputs is not removal or alteration as a matter of law. *See id.* at *7.
3 The Court should therefore dismiss EVOX’s Output Theory without leave to
4 amend. *See id.*; *Moreland Apartments Assocs. v. LP Equity LLC*, No. 5:19-cv-
5 00744, 2019 WL 6771792, at *2 (N.D. Cal. Dec. 12, 2019) (“When a claim or
6 portion of a claim is precluded as a matter of law, that claim may be dismissed
7 pursuant to Rule 12(b).”).

8 **2. EVOX’s Training Theory fails because EVOX does not**
9 **plausibly plead removal of CMI during training.**

10 *GitHub* did not decide the Training Theory because the plaintiffs there
11 forfeited it. 2026 WL 2728464, at *3. EVOX’s Training Theory must therefore be
12 measured against § 1202(b)’s text. EVOX must plead an intentional removal or
13 alteration by Runway and facts showing that Runway knew or reasonably should
14 have known that its actions would “induce, enable, facilitate, or conceal an
15 infringement” of a copyright. 17 U.S.C. § 1202(b); *see also, e.g., Stevens v.*
16 *Corelogic, Inc.*, 899 F.3d 666, 673 (9th Cir. 2018).

17 EVOX does not plausibly allege that Runway removed or altered CMI during
18 model training. The Complaint alleges only that “at some point” during training,
19 Runway and other Defendants removed or altered CMI from training images.⁵⁶ It
20 identifies no Runway actor or process that removed any CMI; no step when it was
21 removed; and no image with altered or removed data.⁵⁷ Indeed, EVOX pleads no
22 facts specific to Runway versus any other Defendant. Those generic allegations do
23 not support a plausible inference that Runway removed or altered CMI. *See*
24 *Twombly*, 550 U.S. at 570; *see also Steward v. West*, No. 13-cv-02449, 2013 WL
25 12120232, at *3 (C.D. Cal. Sep. 6, 2013) (“Courts in the Ninth Circuit have
26 routinely held that undifferentiated pleading against multiple defendants is

27 ⁵⁶ Compl. ¶ 142.

28 ⁵⁷ *See* Compl. ¶¶ 138–51.

improper.” (collecting cases)).

3. Both of EVOX’s DMCA theories fail because EVOX does not plausibly plead double scienter.

EVOX also does not plausibly plead the DMCA’s first scienter requirement—that Runway intentionally removed CMI—for either of its DMCA theories. Starting with EVOX’s Training Theory, as a preliminary matter, because EVOX did not adequately allege any removal or alteration of CMI during model training, “there can be no knowledge of any removal or alteration.” *See Falkner v. GM, LLC*, 393 F. Supp. 3d 927, 939 (C.D. Cal. 2018). The same is true for EVOX’s Output Theory. Because the absence of EVOX CMI from Runway’s outputs is not removal or alteration of CMI as a matter of law, it necessarily follows that Runway did not intentionally remove CMI from model outputs. *See GitHub*, 2026 WL 2728464, at *7. In addition, the allegation that the training process does not preserve CMI⁵⁸ is legally insufficient to establish intentional removal of CMI. *See Tremblay v. OpenAI, Inc.*, 716 F. Supp. 3d 772, 779 (N.D. Cal. 2024) (dismissing DMCA claim because plaintiffs’ assertion that “[b]y design, the training process does not preserve any CMI” did not plausibly allege the DMCA’s first scienter requirement).

Further, neither of EVOX’s DMCA theories plausibly alleges that Runway knew or had reasonable grounds to know the alleged removal or alteration would “induce, enable, facilitate, or conceal” infringement. 17 U.S.C. § 1202(b)(1); *Stevens*, 899 F.3d at 673. EVOX merely recites the statute and assumes this second scienter requirement is satisfied because removing or altering CMI generally makes future infringement more likely.⁵⁹ But simply “identif[ying] . . . a general possibility that exists whenever CMI is removed . . . won’t wash.” *See Stevens*, 899 F.3d at 673. EVOX “must make an affirmative showing, such as by demonstrating

⁵⁸ See Compl. ¶¶ 141–42, 146.

⁵⁹ See, e.g., Compl. ¶¶ 147, 150.

1 a past ‘pattern of conduct’ or ‘modus operandi,’ that [Runway] was aware or had
2 reasonable grounds to be aware of the probable future impact of its actions.” *See id.*
3 at 674.

4 EVOX makes no such showing, instead “rel[ying] on the same allegations
5 regarding [Runway’s] training process, and the same underlying theory that [the]
6 training process imbued [Runway] with knowledge that the removal of CMI would
7 induce third party infringement.” *See Concord Music Grp.*, 2025 WL 1487988, at
8 *7. Those allegations are far too conclusory to withstand dismissal. *See id.*; *see also*
9 *Tremblay*, 716 F. Supp. 3d at 779 (rejecting theory that OpenAI’s alleged removal
10 of CMI from undisclosed books used to train ChatGPT knowingly enabled
11 infringement).

12 EVOX cannot convert its copyright infringement claims into a DMCA claim
13 by asserting that CMI must have disappeared somewhere in the process. Parties
14 may not use “the DMCA [to] supplant traditional copyright protections and subject
15 defendants to potentially ruinous liability under the DMCA’s enhanced statutory
16 damages.” *See GitHub*, 2026 WL 2728464, at *7. That is precisely what EVOX
17 seeks to do. As in *GitHub*, the Court should “decline [EVOX’s] invitation to
18 transform run-of-the-mill copyright-infringement claims into DMCA claims.” *See*
19 *id.* Count Five should be dismissed.

20 **V. CONCLUSION**

21 For the foregoing reasons, the Court should dismiss Counts One, Two, Four,
22 and Five against Runway without leave to amend.

23 Dated: October 12, 2026

KEKER, VAN NEST & PETERS LLP

24
25 By: /s/ Paven Malhotra

26 DAVID SILBERT
27 PAVEN MALHOTRA
28 BAILEY W. HEAPS
JULIA L. GREENBERG

Attorneys for Defendant
RUNWAY AI, INC.

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Defendant Runway AI, Inc., certifies that this brief contains 6,112 words, which complies with the word limit of L.R. 11-6.1.

Dated: October 12, 2026

KEKER, VAN NEST & PETERS LLP

By: /s/ Paven Malhotra

DAVID SILBERT

PAVEN MALHOTRA

BAILEY W. HEAPS

JULIA L. GREENBERG

Attorneys for Defendant
RUNWAY AI, INC.