

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, INC., )  
 )  
 Defendants. )

**DEFENDANTS' MOTION TO DISMISS OR TRANSFER THIS ACTION**

Pursuant to Federal Rules of Civil Procedure 12(b)(2), 12(b)(6), and 12(b)(7), Defendants Stability AI, Inc. and Stability AI Ltd. (collectively, "Defendants") respectfully move to dismiss Plaintiff's Amended Complaint (D.I. 13) for lack of personal jurisdiction, for inability to join a necessary and indispensable party, and for failure to state a claim upon which relief can be granted. In the alternative, Defendants request that this action be transferred to the Northern District of California under 28 U.S.C. § 1631 or § 1404(a).

The grounds for this motion are fully set forth in Defendants' Opening Brief and the Declaration of Peter O'Donoghue filed herewith. A proposed order is attached.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

*/s/ Michael J. Flynn*

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May 2, 2023

**D. DEL. LR 7.1.1 CERTIFICATE**

Pursuant to D. Del. LR 7.1.1, the undersigned counsel for Defendants certifies that the parties have conferred on Defendants' alternative requested relief for transfer of this action to the Northern District of California, but the parties were unable to reach agreement.

*/s/ Michael J. Flynn*

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Michael J. Flynn (#5333)

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STABILITY AI, INC., )  
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Defendants. )

**[PROPOSED] ORDER GRANTING MOTION TO DISMISS**

The Court, having reviewed and considered Defendants' Motion to Dismiss and the responsive filings, finds that the Motion should be granted.

Accordingly, IT IS HEREBY ORDERED that the Motion is GRANTED and Plaintiff's claims in its Amended Complaint (D.I. 13) are DISMISSED WITH PREJUDICE.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
The Honorable Gregory B. Williams  
United States District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on May 2, 2023, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on May 2, 2023, upon the following in the manner indicated:

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