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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STRIKE 3 HOLDINGS, LLC, et al.,
Plaintiffs,
v.
META PLATFORMS, INC.,
Defendant.

Case No. 25-cv-06213-EKL

**ORDER DENYING MOTION TO
DISMISS**

Re: Dkt. Nos. 34, 54

This copyright infringement action arises out of allegations that Defendant Meta Platforms, Inc. used BitTorrent to download films owned by Plaintiffs Strike 3 Holdings, LLC and Counterlife Media, LLC to train generative artificial intelligence (“AI”) models. Before the Court is Defendant’s motion to dismiss the complaint for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). Mot. to Dismiss, ECF No. 34 (“Mot.”). The Court carefully reviewed the parties’ briefs and heard argument on February 11, 2026. ECF No. 42. For the following reasons, the Court DENIES Defendant’s motion.

I. BACKGROUND

Plaintiffs are the owners of adult films. Compl. ¶ 2, ECF No. 1. Plaintiffs allege that Defendant is infringing their copyrighted works by downloading and uploading their films using BitTorrent. *Id.* ¶ 5. BitTorrent is a file-sharing protocol designed to quickly distribute large files over the internet by allowing users to connect to other users’ computers to “simultaneously download and upload pieces of [a] file from and to other users.” *Id.* ¶ 61. BitTorrent operates on a tit-for-tat basis where uploading files, known as “seeding,” enables the user to obtain faster download speeds. *See id.* ¶ 112. Thus, Plaintiffs allege Defendant not only downloaded their films but also distributed them on BitTorrent “to accelerate its downloads of vast amounts of other

1 content.” *Id.* ¶¶ 111, 116, 119.

2 Around January 2025, Plaintiffs became aware that Defendant “admitted to using . . .
3 pirated books it obtained through BitTorrent to train its LLaMA platforms in a separate lawsuit.”
4 *Id.* ¶¶ 53-55 (referencing *Kadrey v. Meta Platforms, Inc.*, No. 23-cv-3417 (N.D. Cal. filed on July
5 7, 2023)). Specifically, Defendant’s “employees testified that Meta configured six Virtual Private
6 Clouds . . . to torrent content.” *Id.* ¶ 92. After learning about Defendant’s admission in *Kadrey*,
7 Plaintiffs conducted an investigation using proprietary copyright infringement detection tools and
8 an archive of recorded infringement of their films. *Id.* ¶¶ 56, 71. Plaintiffs began by reviewing
9 their archive and identified 47 IP addresses belonging to Defendant (“Corporate IP Addresses”)
10 that were used to torrent their films 157 times from 2018 to 2025. *Id.* ¶¶ 56, 77, 109-110; Compl.
11 Ex. F, ECF No. 19-4.¹

12 Plaintiffs then attempted to identify Defendant’s “hidden IP addresses by looking for . . .
13 correlations to data patterns that matched infringement patterns seen on Meta’s corporate IP
14 Addresses,” such as when multiple IP addresses tormented files with the same key term in the file
15 name on the same day. Compl. ¶ 94; *see also* Ex. B. Using this technique, Plaintiffs identified IP
16 addresses in seven ranges (“IP Ranges A-G”) and a Comcast residential IP address (“Residential
17 IP Address”) that appeared to “act[] in conjunction” with the Corporate IP Addresses. Compl.
18 ¶ 97; *see also* Ex. B. Plaintiffs allege that the seemingly coordinated behavior across these IP
19 addresses shows that IP Ranges A-G and the Residential IP Address were used by Defendant for a
20 business purpose. Compl. ¶¶ 101-102. Specifically, Plaintiffs allege that: (1) Ranges A-F
21 correspond with the six Virtual Private Clouds (“VPCs”) identified in *Kadrey*, *id.* ¶ 98; (2) Range
22 G belongs to VDS Corp., LLC, a Hawaiian non-profit registered to a street address that Plaintiffs
23 were unable to locate and about whose “purported Director” Plaintiffs could not find “any public
24 information,” *id.* ¶ 99-100; and (3) the Residential IP Address belongs to the father of a man who
25 worked for Defendant “on a contract basis . . . during the time of infringement with the title of
26 ‘automation engineer,’” that the infringement ceased when his contract ended, and that the
27

28 ¹ All exhibits to the complaint are filed under ECF No. 19-4.

1 contractor has since been rehired by Defendant at its Reality Labs in New York, *id.* ¶¶ 104-106.

2 All told, the IP addresses identified in the complaint allegedly torrented at least 2,396 of
3 Plaintiffs’ films a total of 6,008 times between 2018 and 2025. *Id.* ¶¶ 6, 108-109; Exs. E-F.
4 Additionally, the IP addresses were allegedly used to seed Plaintiffs’ films to BitTorrent, including
5 the “continuous distribution of 1,335 of [their] movies for at least three full days after acquiring
6 the full copy of the movie” from BitTorrent. Compl. ¶¶ 116, 119; Exs. G-H. Plaintiffs contend
7 that this behavior demonstrates “non-human patterns,” indicating that the torrenting was
8 conducted by Defendant using “centrally driven . . . sophisticated algorithms and scripts.” Compl.
9 ¶¶ 101-102. Plaintiffs further allege that Defendant torrented their films for the purposes of
10 “acquiring content to train its Meta Movie Gen, Large Language Model[,] [and] various other
11 Meta AI Models that rely on video training content,” which Defendant expects to generate
12 between \$460 billion and \$1.4 trillion in total revenue by 2035. *Id.* ¶¶ 7, 126.

13 On July 23, 2025, Plaintiffs filed this complaint asserting causes of action for direct,
14 vicarious, and contributory copyright infringement. *Id.* ¶¶ 156-175. Defendant moves to dismiss
15 all claims pursuant to Federal Rule of Civil Procedure 12(b)(6).

16 **II. LEGAL STANDARD**

17 Under Federal Rule of Civil Procedure 12(b)(6), a court must dismiss a complaint if it fails
18 to state a claim upon which relief can be granted. To avoid dismissal, Plaintiffs must allege
19 “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*,
20 550 U.S. 544, 570 (2007). A claim is facially plausible when the pleaded facts allow the court “to
21 draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v.*
22 *Iqbal*, 556 U.S. 662, 678 (2009). When there are “two possible explanations, only one of which
23 can be true and only one of which results in liability, plaintiffs cannot offer allegations that are
24 ‘merely consistent with’ their favored explanation but are also consistent with the alternative
25 explanation.” *In re Century Aluminum Co. Sec. Litig.*, 729 F.3d 1104, 1108 (9th Cir. 2013)
26 (quoting *Iqbal*, 556 U.S. at 678). “Something more is needed, such as facts tending to exclude the
27 possibility that the alternative explanation is true, . . . in order to render plaintiffs’ allegations
28 plausible within the meaning of *Iqbal* and *Twombly*.” *Id.* (citing *Twombly*, 550 U.S. at 554).

1 For purposes of a Rule 12(b)(6) motion, the court generally “accept[s] factual allegations
2 in the complaint as true and construe[s] the pleadings in the light most favorable to the nonmoving
3 party.” *Manzarek v. St. Paul Fire & Marine Ins. Co.*, 519 F.3d 1025, 1031 (9th Cir. 2008).
4 However, the court need not “assume the truth of legal conclusions merely because they are cast in
5 the form of factual allegations.” *Fayer v. Vaughn*, 649 F.3d 1061, 1064 (9th Cir. 2011) (per
6 curiam) (quoting *W. Mining Council v. Watt*, 643 F.2d 618, 624 (9th Cir. 1981)).

7 **III. REQUEST FOR JUDICIAL NOTICE**

8 In ruling on a motion to dismiss, courts generally do not consider material outside the
9 pleadings. *United States v. Corinthian Colls.*, 655 F.3d 984, 998 (9th Cir. 2011). However, courts
10 may consider “documents incorporated into the complaint by reference.” *Tellabs, Inc. v. Makor*
11 *Issues & Rts., Ltd.*, 551 U.S. 308, 322 (2007). “[A] defendant may seek to incorporate a document
12 into the complaint ‘if the plaintiff refers extensively to the document or the document forms the
13 basis of the plaintiff’s claim.’” *Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 1002 (9th Cir.
14 2018) (quoting *United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003)). Additionally, courts
15 may take judicial notice of facts that are “not subject to reasonable dispute” because they “can be
16 accurately and readily determined from sources whose accuracy cannot reasonably be questioned.”
17 Fed. R. Evid. 201(b). Courts may not, however, take notice of disputed facts contained in a
18 judicially-noticed document. *See Khoja*, 899 F.3d at 999.

19 Defendant asks the Court to consider nine exhibits in connection with its motion to
20 dismiss. Req. for Judicial Notice, ECF No. 35 (“RJN”); Decl. of Angela Dunning, ECF No. 34-1;
21 Reply Decl. of Angela Dunning, ECF No. 39-1. Defendant’s request is GRANTED as to Exhibits
22 1-2, 5-7, and 9. Defendant’s request is DENIED as to Exhibits 3-4 and 8.

23 Exhibits 1 and 2 are Defendant’s 10-K forms filed with the Securities and Exchange
24 Commission (“SEC”). Dunning Decl., Exs. 1-2, ECF Nos. 34-2, 34-3. The Court may take
25 judicial notice of these exhibits because they are publicly-available documents. *See In re Bare*
26 *Escentuals, Inc. Sec. Litig.*, 745 F. Supp. 2d 1052, 1066-67 (N.D. Cal. 2010). However, the Court
27 considers SEC filings “only for the purpose of determining what statements the documents
28 contain, not to prove the truth of the documents’ contents.” *Troy Grp., Inc. v. Tilson*, 364

1 F. Supp. 2d 1149, 1152 (C.D. Cal. 2005). Thus, the Court will not consider Exhibits 1 and 2 for
2 the purpose of determining the number of individuals Defendant employs. *See* RJN Opp. at 3-5,
3 ECF No. 38. The Court notes, however, that Plaintiffs do not dispute that Defendant employs
4 many people. *See id.* at 1.

5 Exhibit 3 is a research paper titled “Ego4D: Around the World in 3,000 Hours of
6 Egocentric Video.” Dunning Decl., Ex. 3, ECF No. 34-4; *see also* RJN at 5. The Court finds that
7 it may not judicially notice Exhibit 3 because it is being introduced for the truth of its contents to
8 rebut well-pleaded facts in the complaint and because, contrary to Defendant’s assertion
9 otherwise, its accuracy may reasonably be questioned. *See Khoja*, 899 F.3d at 999.

10 Exhibit 4 is Defendant’s AI Terms of Service, as of July 1, 2025. Dunning Decl., Ex. 4,
11 ECF No. 34-5. Plaintiffs oppose taking judicial notice of Exhibit 4, arguing that it is irrelevant
12 because it concerns the conduct of Defendant’s users, not its employees, and took effect only
13 weeks before this lawsuit was filed. RJN Opp. at 8. Defendant replies that Plaintiffs’ arguments
14 may affect the weight of the evidence but are not reasons to deny judicial notice. RJN Reply at 3-
15 4, ECF No. 40. Because the only purpose for which Defendant requests judicial notice is
16 disputed, *see infra* n.6, the Court will not take judicial notice of Exhibit 4.

17 Exhibit 5 is a spreadsheet reflecting the information in Exhibit F to the complaint sorted
18 chronologically. Dunning Decl., Ex. 5, ECF No. 34-6. Plaintiffs do not oppose this exhibit. *See*
19 RJN Opp. The Court will incorporate Exhibit 5 by reference because it is comprised of the same
20 information already attached to the complaint in Exhibit F.

21 Exhibits 6 and 7 are docket entries 568-9 and 490-37, respectively, which are exhibits to
22 motions for summary judgment in the *Kadrey* litigation. Dunning Decl., Exs. 6-7, ECF Nos. 34-7,
23 34-8; Dunning Decl. ¶¶ 7-8. Exhibit 6 is an excerpt of email correspondence between two of
24 Defendant’s employees. Dunning Decl., Ex. 6. Exhibit 7 is a portion of the transcript of the Rule
25 30(b)(6) deposition of Defendant, by and through its corporate designee, Michael Clark, taken
26 December 19, 2024, concerning the six VPCs. Dunning Decl., Ex. 7. Both exhibits are cited in
27 the complaint, *see* Compl. ¶¶ 92, 107, and Plaintiffs do not oppose incorporation, *see* RJN Opp.
28 Accordingly, the Court will incorporate both exhibits by reference.

1 Exhibit 8 is an article from July 25, 2024, titled “New Decision Addresses Meta’s Rules on
2 Non-Consensual Deepfake Intimate Images” by Meta’s Oversight Board. Dunning Reply Decl.,
3 Ex. 8, ECF No. 39-2. Plaintiffs reference this article in their RJN opposition and Defendant
4 requests that it be judicially noticed in an attachment to their RJN reply. *See* RJN Opp. at 9;
5 Dunning Reply Decl. ¶ 2. The Court will not judicially notice Exhibit 8 because it is not properly
6 introduced for purposes of deciding Defendant’s motion to dismiss, and because it is being used
7 for the truth of its contents, which may reasonably be disputed.

8 Exhibit 9 is a copy of Plaintiff Strike 3 Holdings, LLC’s complaint against an unnamed
9 subscriber of an IP address. Dunning Reply Decl. ¶ 3; *see also* Compl. ¶ 104 (referencing
10 lawsuit). A court “may take judicial notice of court filings” in other cases “[t]o determine what
11 issues were actually litigated.” *Reyn’s Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6
12 (9th Cir. 2006). However, “a court may not take judicial notice of proceedings or records in
13 another [case] so as to supply, without formal introduction of evidence, facts essential to support a
14 contention in a cause then before it.” *M/V Am. Queen v. San Diego Marine Const. Corp.*, 708
15 F.2d 1483, 1491 (9th Cir. 1983). Thus, the Court will take judicial notice of Exhibit 9 for the
16 existence of the issues litigated in the other action, but not for any other purpose.

17 **IV. DISCUSSION**

18 Defendant moves to dismiss both Plaintiffs’ direct and secondary infringements claims.
19 As to the direct infringement claim, Defendant argues that (1) Plaintiffs fail to sufficiently allege
20 that their films were used to train any of Defendant’s AI models, *see* Mot. at 12-13; Reply at 2-4,
21 ECF No. 39; and (2) Plaintiffs fail to plead facts sufficient to show that Defendant was responsible
22 for torrenting Plaintiffs’ films, as opposed to individuals accessing the Corporate IP Addresses for
23 personal use, *see* Mot. at 10-11. Defendant also moves to dismiss Plaintiffs’ claims for vicarious
24 and contributory copyright infringement on related grounds, as well as on the specific elements of
25 each claim. *Id.* at 15-21. The Court addresses each in turn.

26 **A. Direct Copyright Infringement**

27 To state a claim for direct copyright infringement, a plaintiff must show (1) ownership of
28 the allegedly infringed material, (2) that an exclusive right granted under 17 U.S.C. § 106 was

1 violated, and (3) causation by the defendant. *See Perfect 10, Inc. v. Giganews, Inc.*, 847 F.3d 657,
2 666 (9th Cir. 2017). Defendant challenges the second and third elements.

3 1. Violation of an Exclusive Right

4 Plaintiffs allege that their films were downloaded from and uploaded to peers in the
5 BitTorrent network. Compl. ¶¶ 109-110, 148; Exs. F, H. Defendant does not contest these
6 allegations at this stage. *See* Mot.; *see also* Opp. at 6-7, ECF No. 37. Nor does Defendant dispute
7 that downloading and uploading are infringing acts of reproduction and distribution. *See* 17
8 U.S.C. § 106; *Columbia Pictures Indus., Inc. v. Fung*, 710 F.3d 1020, 1034 (9th Cir. 2013) (“Both
9 uploading and downloading copyrighted material are infringing acts.”); *see also Kadrey v. Meta*
10 *Platforms, Inc.*, 788 F. Supp. 3d 1026, 1041 (N.D. Cal. 2025). Thus, Plaintiffs’ allegations are
11 sufficient to satisfy the second element of a direct infringement claim.

12 In Defendant’s view, Plaintiffs were required to allege that their films were used to train
13 specific AI models. Mot. at 12-13. Defendant incorrectly extrapolates this pleading requirement
14 from two other cases that involved a different theory of infringement. *See id.* (citing *In re Google*
15 *Generative AI Copyright Litig.*, 809 F. Supp. 3d 903 (N.D. Cal. 2025) (“*In re Google GenAI*”) and
16 *In re Mosaic LLM Litig.*, No. 24-cv-01451-CRB, 2025 WL 2402677 (N.D. Cal. Aug. 19, 2025)
17 (“*In re Mosaic LLM*”)); Reply at 2. The plaintiffs in *In re Google GenAI* and *In re Mosaic LLM*
18 were required to allege that their works were used to train defendants’ AI models because they
19 claimed that defendants made unauthorized copies “during the model training process.” *In re*
20 *Google GenAI*, 809 F. Supp. 3d at 909; *see also id.* at 914 (“Because Plaintiffs do not allege that
21 any of their works were included in training datasets used to develop these models, Plaintiffs do
22 not plausibly allege copyright infringement.”); *In re Mosaic LLM*, 2025 WL 2402677, at *2
23 (“Plaintiffs do not allege facts that could establish that the DBRX models are actually trained on
24 any shadow library websites, let alone those that contain Plaintiffs’ works.”). By contrast, in this
25 case Plaintiffs allege that torrenting is the infringing act of reproduction and distribution.²

26 _____
27 ² Defendant further argues that Plaintiffs did not adequately allege *which* of Defendant’s
28 downloads were sped up by seeding Plaintiffs’ films on BitTorrent. Mot. at 13. However,
Defendant does not provide authority for why this level of detail is required at the motion to
dismiss stage. Nor can the Court discern a basis for requiring such particularity given that

1 Because Plaintiffs have adequately pleaded that their exclusive rights under the Copyright Act
 2 were violated when their films were torrented, they have satisfied the second element, regardless
 3 of whether their films were used to train specific AI models.

4 2. Causation

5 Defendant next argues that Plaintiffs have failed to allege causation because the complaint
 6 does not plausibly show that Defendant – as opposed its many employees, “contractors, visitors,
 7 and third parties [who] access the internet at Meta every day” – caused the infringing activity.
 8 Mot. at 10 (relying on *Cobbler Nevada, LLC v. Gonzales*, 901 F.3d 1142 (9th Cir. 2018)). The
 9 Court disagrees.

10 In *Cobbler Nevada*, the Ninth Circuit held that a defendant’s “status as the registered
 11 subscriber of an infringing IP address” is insufficient “standing alone” to create “a reasonable
 12 inference that [the defendant] is also the infringer.” 901 F.3d at 1145. “Because multiple devices
 13 and individuals may be able to connect via an IP address,” the Ninth Circuit concluded that a
 14 “plaintiff must allege *something more* to create a reasonable inference that a subscriber is also an
 15 infringer.” *Id.* (emphasis added) (holding that plaintiff failed to state a claim against the operator
 16 of an adult foster care home based solely on the operator’s status as the registered subscriber of the
 17 infringing IP address).

18 In applying this standard, courts have looked to whether the circumstances of the
 19 infringement, including the content of the downloads, and any inferences drawn therefrom
 20 plausibly link the defendant to the infringing activity. *Compare Strike 3 Holdings, LLC v. Doe*,
 21 791 F. Supp. 3d 1102, 1105 (N.D. Cal. 2025) (holding plaintiff adequately alleged that defendant,
 22 rather than his wife, was the infringer because BitTorrent was used to download materials related
 23 to defendant’s career), and *Strike 3 Holdings, LLC v. Andaya*, No. 21-cv-00760-VKD, 2021 WL
 24 5123643, at *4 (N.D. Cal. Nov. 4, 2021) (holding plaintiff adequately alleged that defendant was
 25 the infringer based on connections between defendant’s social media interests and the content that
 26 was torrented), with *Venice PI, LLC v. Huseby*, No. C17-1160 TSZ, 2019 WL 1572894, at *1-2

27 _____
 28 increased download speeds result automatically from seeding content on BitTorrent. Thus, all that
 matters is whether Plaintiffs sufficiently alleged that Defendant torrented their films.

1 (W.D. Wash. Apr. 11, 2019) (holding that prolonged use of an IP address to infringe media was
 2 insufficient when defendant was 75 years old, had only basic computer skills, and lived in an
 3 apartment complex).

4 Here, Plaintiffs do not rely solely on Defendant’s status as the subscriber to the Corporate
 5 IP Addresses. Rather, Plaintiffs’ investigation shows seeming coordination across all the
 6 identified IP addresses, which Plaintiffs contend must not be coincidence. The Court agrees,
 7 finding that the allegations are sufficient to infer a coordinated effort to gather data – whether
 8 Plaintiffs’ works were specifically targeted, as they allege, or not – which is enough to survive the
 9 motion to dismiss.

10 To begin, Plaintiffs’ investigation shows that the IP addresses tormented files with similar
 11 file names on the same day, ranging from pornography to cartoons and sitcoms, suggesting that an
 12 algorithm downloaded files based on key terms. *See* Ex. B;³ *see also* Compl. ¶¶ 95, 101-103. For
 13 example, IP Ranges A and F tormented the following files on December 15, 2022: “Teen Sex
 14 Sessions 2 (2012),” “Teen Titans Go to the Movies (2018),” “Teens Love Tats XXX,”
 15 “TeensLoveAnal.16.09.30.Amara,” “Teenfidelity Pics,” “TeensLoveAnal.16.06.10.Casey,”
 16 “Teenage Mutant Ninja Turtles (1987-1996),” “Teen Mom Girls Night In S02E08,”
 17 “TeenyTaboo.22.12.07.Kiana,” and “TeenageDelinquents.Maryjane.” Ex. B at 3, ll. 54-63. On
 18 the same day, a Corporate IP Address was used to torrent “TeenCurves.22.12.09.Willow.” *Id.* at
 19 3, l. 64. The connection between these files is plain: The word “teen” appears in every file name.
 20 Similar patterns are shown repeatedly across the identified IP addresses.⁴ It strains credulity to
 21

22 _____
 23 ³ Defendant argues that the Court should disregard Exhibit B because Plaintiffs did not explain
 24 their methodology and the exhibit does not include Plaintiffs’ films. Mot. at 11; Reply at 10.
 25 Arguments concerning Plaintiffs’ methodology are premature on a Rule 12(b)(6) motion. And
 although the Court may also question why Plaintiffs chose not to cross-reference their own films,
 that choice does not undermine the fact that, as discussed below, the exhibit plausibly shows
 coordination across the IP addresses.

26 ⁴ *See, e.g., id.* at 8, ll. 289-292 (IP Ranges A and F torrenting “Dragon Wars D-War (2007)” and
 27 “Dragonball Season 1” and a Corporate IP Address torrenting “Dragon Ball Super Hero” on
 December 27, 2022); *id.* at 39, ll. 1722-1728 (IP Ranges A and B torrenting multiple files with the
 word “bang” in the title, including “The Big Bang Theory S05” and
 28 “BangBrosClips.23.05.09.Valerica,” and Corporate IP Addresses torrenting
 “BangMyTrannyAss.Gina” and “BangBangShemale.Ariana” on May 9, 2023).

1 suggest that these correlations are mere coincidence and the product of individual human
2 selections. Instead, the many commonalities across files permit a reasonable inference that the
3 downloads were operated by an algorithm using key terms, which accounts for why pornography
4 was downloaded alongside children’s cartoons and sitcoms. The seeming coordination with the
5 Corporate IP Addresses also supports Plaintiffs’ allegation that Defendant controlled IP Ranges A-
6 G and the Residential IP Address. *See also* Compl. ¶¶ 118-119; Ex. H (showing that, on five
7 occasions, IP addresses in Ranges A, B, D, and F worked in concert to target a specific site
8 operated by Plaintiffs for distribution on BitTorrent).

9 Other algorithmically coordinated behavior is apparent, too, from Plaintiffs’ investigation.
10 The IP addresses synchronously changed languages, downloaded obscure yet nearly identical files,
11 and downloaded television shows out of order, all of which tend to disprove Defendant’s
12 alternative theory that unrelated individuals torrented the files for personal entertainment. For
13 example, an address in IP Range A and a Corporate IP Address torrented files with names in
14 Russian on the same day, when each typically torrented English media. Ex. B at 5, ll. 177-178.
15 Similarly, addresses in IP Ranges A and F torrented “661188.xyz 极品女神童颜巨乳网红” and
16 “661188.xyz 扭动屁股摆弄姿势” on the same day that a Corporate IP Address torrented
17 “661188.xyz 知名百万粉丝网红,” again reflecting coordinated changes in language and that
18 obscure yet nearly identical files were torrented at the same time. *Id.* at 44, ll. 1955-1957. On
19 another occasion, IP addresses in Ranges B and F and a Corporate IP Address torrented eight
20 episodes of Ted Lasso out of order. *See id.* at 45, ll. 2016-2023. Even the episodes torrented by
21 the Corporate IP Addresses were non-sequential, indicating that they were not downloaded by an
22 individual for personal consumption. *See id.* at 45, ll. 2017-2020, 2023. Defendant’s alternative
23 explanation is that several people must have torrented the show separately. But the odds that
24 multiple people using the Corporate IP Addresses and the IP Ranges coincidentally torrented the
25 same show, rather than simply streaming it, on the exact same day strains belief and is not a
26 proper inference for the Court to draw in favor of the moving party.

27 Finally, circumstantial facts alleged in the complaint like the public business setting and
28 Defendant’s known use of VPCs to torrent training data also support Plaintiffs’ claims. Torrenting

1 pornography in a place of business is unlike torrenting the same media in the privacy of one's
 2 home. It is even unlike streaming pornography while at work, since torrenting requires the user to
 3 download the media onto a device. *See* Compl. ¶¶ 63-70. Thus, the fact that the Corporate IP
 4 Addresses were used to download pornography supports the conclusion that the films were not
 5 torrented for personal entertainment, when considering the totality of the circumstances.
 6 Additionally, Defendant has acknowledged that it used six VPCs to torrent archives for the
 7 purposes of acquiring training data, which supports Plaintiffs' allegation that Defendant used
 8 VPCs to torrent additional files, including their films.⁵ *See* Dunning Decl., Ex. 7; *cf. Andaya*,
 9 2021 WL 5123643, at *4.

10 Drawing all reasonable inferences in favor of the non-moving party, as it must, the Court
 11 holds that Plaintiffs have therefore sufficiently alleged that Defendant engaged in a coordinated
 12 effort to gather data through BitTorrent, including by torrenting Plaintiffs' films. The
 13 commonalities across downloads – including the apparent use of key terms, coordinated changes
 14 in language, similarity in obscure files, and non-sequential torrenting of television shows – in
 15 combination with other circumstantial facts creates a reasonable inference that Defendant, not its
 16 employees or visitors, controlled the identified IP addresses and used an algorithm to torrent files
 17 for a business purpose.⁶ *See In re Century Aluminum Co. Sec. Litig.*, 729 F.3d at 1108. Thus,

18 _____
 19 ⁵ Defendant argues that the deposition testimony in *Kadrey* “states that the torrenting activity
 20 involving [the six VPC] servers began in 2024, *not* six years earlier, in 2018, as would have to be
 21 the case if the six servers actually corresponded to IP Ranges A-F.” Mot. at 12. But the testimony
 22 is not as ironclad as Defendant suggests. It reads:

21 Q: When did Meta's torrenting of Anna's Archive end?

22 A: In conversations with Xiaolan, it was somewhere between April and June of 2024. . . .

23 Q: So Meta began torrenting in April and completed its torrenting in June?

24 A: For the work that Xiaolan was doing, yes.

25 Dunning Decl., Ex. 7 at 52. Thus, the testimony Defendant cites concerned the work that
 26 “Xiaolan was doing” and the “torrenting of Anna's Archive,” but does not purport to address
 27 when Defendant used the VPCs or BitTorrent in general. *Id.*

28 ⁶ Because Plaintiffs' allegations are plausible, many of Defendant's other arguments are premature
 since the Court may not weigh inferences. *See* Reply at 3 (urging the Court to draw “[t]he far
 more logical inference”). Specifically, the Court cannot at this time credit Defendant's arguments
 that: (1) it would not have included adult films in its training data because its AI Terms of Service
 prohibit using its AI models to generate pornographic content, Mot. at 2; (2) the timing, *i.e.*, when
 torrenting occurred compared to when Defendant began training video AI models, is

1 Plaintiffs have alleged “something more” than the “bare allegation that [the] defendant is the
2 registered subscriber,” which is enough to survive dismissal under *Cobbler Nevada*. 901 F.3d at
3 1144.

4 **B. Vicarious Copyright Infringement**

5 Alternatively, Plaintiffs allege that Defendant is vicariously liable for copyright
6 infringement by its employees. “To prevail on a claim for vicarious infringement, a plaintiff must
7 prove the defendant has (1) the right and ability to supervise the infringing conduct and (2) a direct
8 financial interest in the infringing activity.” *Perfect 10, Inc.*, 847 F.3d at 673 (citation modified).
9 Defendant disputes each element.

10 **1. Control**

11 “[A] defendant exercises control over a direct infringer when [it] has both a legal right to
12 stop or limit the directly infringing conduct, as well as the practical ability to do so.” *Perfect 10,*
13 *Inc. v. Amazon.com, Inc.*, 508 F.3d 1146, 1173 (9th Cir. 2007). Quintessentially, a defendant can
14 control conduct by its employees that falls within the scope of employment. *See Fonovisa, Inc. v.*
15 *Cherry Auction, Inc.*, 76 F.3d 259, 261-62 (9th Cir. 1996) (“The concept of vicarious copyright
16 liability was developed . . . as an outgrowth of the agency principles of respondeat superior.”).

17 For the reasons explained above, Plaintiffs’ allegations support the inference that
18 Defendant’s employees, in the course of their employment, torrented Plaintiffs’ films. *See Compl.*
19 ¶¶ 101, 169, 171. Plaintiffs’ allegation that the “infringement was authorized, ordered, or
20 performed by [Defendant’s] respective officers, agents, employees, representatives, or
21 shareholders” therefore rests on adequate factual foundations. *Id.* ¶ 18; *see also id.* ¶ 165.
22 Accordingly, Plaintiffs have sufficiently alleged control.

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26 contradictory, *id.* at 12; (3) certain of Plaintiffs’ films were re-downloaded, which does not
27 suggest coordination, *id.* at 13; (4) Plaintiffs failed to explain why Defendant would have secret
28 VPCs yet also torrent materials on its Corporate IP Addresses, *id.* at 14; and (5) “Plaintiffs’
hunting-and-pecking allegations . . . stand in stark contrast to *Kadrey* . . . [where] plaintiffs
allege[d] that their works were part of immense third-party datasets,” *id.* Additionally, the Court
observes that the AI Terms of Service address what users *may* do, not what Defendant’s AI
models *can* do or what training data they ingested. *See Dunning Decl.*, Ex. 4.

2. Financial Interest

The Court next considers whether Plaintiffs have adequately alleged that Defendant derives a financial benefit from the purported infringement. “The essential aspect of the ‘direct financial benefit’ inquiry is whether there is a causal relationship between the infringing activity and any financial benefit a defendant reaps, regardless of how substantial the benefit is in proportion to a defendant’s overall profits.” *Ellison v. Robertson*, 357 F.3d 1072, 1079 (9th Cir. 2004) (emphasis omitted); *see also Sid Avery & Assocs., Inc. v. Pixels.com, LLC*, 479 F. Supp. 3d 859, 870 (C.D. Cal. 2020) (“In determining whether the financial benefit criterion is satisfied, courts should take a common-sense, fact-based approach, not a formalistic one.” (quoting S. Rep. No. 105-190, at 44 (1998))). If infringement creates greater demand for a defendant’s goods or services, there is a causal relationship, and the defendant has a financial interest in the infringement. *See A&M Records, Inc. v. Napster*, 239 F.3d 1004, 1023 (9th Cir. 2001); *see also Fonovisa*, 76 F.3d at 263-64. Further, the causal relationship may exist when the infringement generates foreseeable financial gain by acting as a draw for customers, even if the revenue comes from the sale of ancillary goods rather than the sale of infringing materials. *See Fonovisa*, 76 F.3d at 263 (holding that a swap meet operator had a financial interest in vendors selling counterfeit recordings because it “reap[ed] substantial financial benefits from admission fees, concession stand sales and parking fees, all of which flow[ed] directly from customers who want[ed] to buy” the recordings).

Plaintiffs’ theory is that Defendant torrented their films “for commercial use” to train its AI models because their films “provide unique dialog, sound effects, and non-verbal vocalizations” and “a distinct visual model of human form, motion, and interaction with technically rich diverse video quality.” Compl. ¶¶ 126, 132, 137-139. Training on Plaintiffs’ films allegedly provides “unique advantages” for Defendant’s AI models and may enable them to produce films that competitors cannot replicate. *See id.* ¶¶ 132-145. These advantages confer a financial benefit because Defendant expects to earn \$460 billion to \$1.4 trillion in total revenue from AI by 2035. *Id.* ¶ 126. Defendant argues that these allegations are deficient because Plaintiffs “make no attempt to tie” the fees Defendant charges for its AI products “to the ‘availability of infringing

1 material,” and that this showing is required. Reply at 12.

2 The Court finds the Ninth Circuit’s decision in *Napster* instructive in addressing this issue.
3 In *Napster*, the defendant offered software that facilitated the transmission of infringing MP3 files
4 between users. 239 F.3d at 1012. The Ninth Circuit held that Napster had a financial interest in
5 the infringement because its “future revenue [was] directly dependent upon increases in userbase”
6 and “[m]ore users [would] register with the Napster system as the quality and quantity of available
7 music increase[d].” *Id.* at 1023 (citation modified); *see also A & M Records, Inc v. Napster, Inc.*,
8 114 F. Supp. 2d 896, 902 (N.D. Cal. 2000) (finding that “[t]he value of the system grows as the
9 quantity and quality of available music increases” and that Napster employed “a strategy of
10 attaining a ‘critical mass’ of music in an ‘ever-expanding library’”). Like the critical mass
11 strategy employed in *Napster*, training AI models depends on accumulating and ingesting mass
12 amounts of training data to improve the model’s quality and functionality. Thus, the causal
13 relationship between the infringing activity and financial benefit is similar – *i.e.*, users will be
14 drawn to Defendant’s AI models by functionality that exists due to the quantity and quality of the
15 training data set. And although the alleged revenue comes from the sale of AI products, rather
16 than copies of Plaintiffs’ films, that is a foreseeable financial benefit from training the models on
17 works that were acquired using BitTorrent. *See Fonovisa*, 76 F.3d at 263.

18 In sum, Plaintiffs have alleged that their particular copyrighted works offer specific and
19 unique advantages for training Defendant’s AI models. Accordingly, the Court finds that
20 Plaintiffs have plausibly alleged that Defendant has a financial interest in the purported
21 infringement.⁷ *See Barkley & Assocs., Inc. v. Quizlet, Inc.*, No. 24-cv-05964-WLH-E, 2025 WL
22 1421844, at *4 (C.D. Cal. Apr. 11, 2025) (finding the financial interest element satisfied when
23 plaintiff alleged that defendant directed third-party AI vendors to use copyrighted materials in

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25 ⁷ Plaintiffs present two other arguments. First, they argue that Defendant has a direct financial
26 interest because it “received and stockpiled Plaintiffs’ creative works without obtaining a license
27 to train its AI.” *Opp.* at 20. This argument is unavailing because a vicarious infringer’s
28 “avoidance of licensing fees [does] not confer a direct financial benefit . . . as a matter of law.”
Erickson Prods., Inc. v. Kast, 921 F.3d 822, 831 (9th Cir. 2019). Second, Plaintiffs assert that, by
seeding Plaintiffs’ films on BitTorrent, Defendant gained efficiencies in the form of faster
download speeds and lower labor costs. *Opp.* at 20. The Court does not reach Plaintiffs’ second
argument.

1 training models and that defendant benefitted from paid subscriptions that relied on those
2 materials).

3 C. Contributory Copyright Infringement

4 As another basis for secondary liability, Plaintiffs allege that Defendant is contributorily
5 liable for copyright infringement by its employees. Contributory liability requires that a party
6 (1) has knowledge of another’s infringement and (2) either (a) induces or (b) materially
7 contributes to that infringement. *See VHT, Inc. v. Zillow Grp., Inc.*, 918 F.3d 723, 745 (9th Cir.
8 2019) (citation omitted). Defendant disputes each element.

9 1. Knowledge

10 To establish knowledge, a plaintiff can show either actual knowledge or willful blindness.
11 *See Luvdarts, LLC v. AT & T Mobility, LLC*, 710 F.3d 1068, 1072-73 (9th Cir. 2013). “Actual
12 knowledge exists where it can be shown by a defendant’s conduct or statements that it actually
13 knew of specific instances of direct infringement.” *Louis Vuitton Malletier, S.A. v. Akanoc Sols.,*
14 *Inc.*, 591 F. Supp. 2d 1098, 1106 (N.D. Cal 2008). This standard is met when “more than merely
15 *knowing of* and *contributing to* the infringing activity, [the defendant is] alleged to have
16 specifically *ordered* that such activity take place.” *UMG Recordings, Inc. v. Bertelsmann AG*, 222
17 F.R.D. 408, 413 (N.D. Cal. 2004). For the reasons discussed above, Plaintiffs have adequately
18 alleged that Defendant ordered the use of BitTorrent, given the apparent coordination across IP
19 addresses, and therefore possessed actual knowledge.⁸ *See* Compl. ¶¶ 18, 101; Ex. B.

20 2. Inducement or Material Contribution

21 During the pendency of this motion, the Supreme Court clarified that “[t]he provider of a
22 service is contributorily liable for [a] user’s infringement only if it intended that the provided
23 service be used for infringement.” *Cox Commc’ns, Inc. v. Sony Music Ent.*, 607 U.S. ----, 146 S.
24 Ct. 959, 967 (2026).⁹ Intent “can be shown only if the party induced the infringement or the

25 _____
26 ⁸ Because Plaintiffs have sufficiently alleged actual knowledge, the Court need not reach the
27 parties’ arguments concerning willful blindness or whether Plaintiffs put Defendant on notice of
the infringement. *See* Mot. at 18; Opp. at 21-22.

28 ⁹ Defendant’s administrative motion seeking leave of court to file statement of recent decision,
ECF No. 54, concerning *Cox Communications* is GRANTED.

1 provided service is tailored to that infringement.” *Id.* A party induces infringement if it takes
 2 “active steps . . . to encourage direct infringement,” *VHT, Inc.*, 918 F.3d at 745 (citation modified),
 3 and a “service is tailored to infringement if it is not capable of substantial or commercially
 4 significant noninfringing uses,” *Cox Commc ’ns*, 146 S. Ct. at 967 (citation modified).

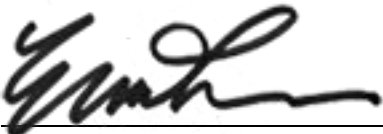
5 Standing alone, Plaintiffs’ allegation that Defendant “provid[ed] access to its servers, data
 6 centers, IP addresses, computers, networks, [and] accounts” would be insufficient under *Cox*
 7 *Communications*. Compl. ¶ 165; *see also Cox Commc ’ns*, 607 U.S. at 968 (holding that petitioner
 8 was not liable when it “provided Internet service to its subscribers, but . . . did not intend for that
 9 service to be used to commit copyright infringement”). However, Plaintiffs plausibly allege that
 10 Defendant took active steps to encourage torrenting by implementing an algorithm and
 11 establishing VPCs – tools tailored to infringe copyrighted works using BitTorrent. Compl.
 12 ¶¶ 101-102; *see also Columbia Pictures*, 710 F.3d at 1032 (“[O]ne who distributes a device with
 13 the object of promoting its use to infringe copyright . . . is liable for the resulting acts of
 14 infringement[.]” (citation modified)). Thus, Plaintiffs have alleged sufficient facts to show
 15 inducement.¹⁰

16 **V. CONCLUSION**

17 In sum, Plaintiffs have plausibly alleged that Defendant is liable for direct, vicarious, and
 18 contributory copyright infringement based on the torrenting of their films. Defendant’s motion to
 19 dismiss is therefore DENIED.

20 **IT IS SO ORDERED.**

21 Dated: June 11, 2026

22
 23 

24 Eumi K. Lee
 25 United States District Judge

26
 27
 28 ¹⁰ Because inducement is satisfied, the Court need not address whether Plaintiffs also sufficiently
 alleged material contribution.