

1 Katherine J. Ellena (SBN 324160)  
kellena@reedsmith.com  
2 Valentino Gorospe IV (SBN 352854)  
vgorospe@reedsmith.com  
3 REED SMITH LLP  
515 South Flower Street, Suite 4300  
4 Los Angeles, CA 90071-1514  
Telephone: +1 213 457 8000  
5 Facsimile: +1 213 457 8080

6 Michael B. Galibois (*pro hac vice*)  
mgalibois@reedsmith.com  
7 Emily Graue (*pro hac vice*)  
egraue@reedsmith.com  
8 Reed Smith LLP  
10 South Wacker Drive, 40th Floor  
9 Chicago, IL 60606-7507  
Telephone: +1 312.207 1000  
10 Facsimile: +1 312.207 6400

11 *Attorneys for Defendant,*  
12 *Rokoko Electronics, et al.*

13 **UNITED STATES DISTRICT COURT**  
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 MATTHEW R. WALSH

16 Plaintiff,

17 vs.

18 ROKOKO ELECTRONICS, and  
19 DOES 1 through 50, inclusive,

20 Defendant.

Case No.: 2:25-cv-05340-ODW-RAO

[Assigned to Hon. Otis D. Wright, II,  
Courtroom 5D; Hon. Rozella A. Oliver,  
Courtroom 590]

**DEFENDANT ROKOKO  
ELECTRONICS' OBJECTIONS TO  
PLAINTIFF'S EVIDENCE IN  
SUPPORT OF OPPOSITION TO  
MOTION FOR PARTIAL  
SUMMARY JUDGMENT**

[Concurrently filed with Opposition to  
Plaintiff's Motion for Partial Summary  
Judgment; Response to Plaintiff's  
Separate Statement; Declarations of  
Katherine Ellena and Mikkel Overby]

**State Court Action Filed:** May 12, 2025  
**Removal Date:** June 12, 2025  
**Discovery Cutoff:** August 10, 2026  
**Trial Date:** March 9, 2027

**Hearing Date:** May 18, 2026  
**Time:** 10:00 a.m.  
**Place:** Courtroom 5D

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 Defendant Rokoko Electronics (“Rokoko”) hereby objects to the evidence  
2 submitted by Plaintiff Matthew Walsh (“Plaintiff”) in support of his Motion for Partial  
3 Summary Judgment. More specifically, Rokoko objects to the Declaration of Matthew  
4 R. Walsh re: Evidentiary Package and certain exhibits contained therein (ECF No. 167-  
5 1) and the Expert Report and Testimony of Matthew R. Walsh (ECF No. 167-2) on the  
6 following grounds:

7 **Separate Statement UMF 1:** Objection to Exhibit 1 (ECF No. 167-1 at 5-63<sup>1</sup>),  
8 which appears to be Rokoko’s purported 2020 Terms & Conditions (“2020 Terms”), on  
9 the grounds that Plaintiff fails to lay a foundation to authenticate the document. Fed. R.  
10 Evid. 901. Plaintiff fails to address the 2020 Terms independently of other exhibits or  
11 with any specificity. *See United States v. Dibble*, 429 F.2d 598, 602 (9th Cir. 1970) (“A  
12 writing is not authenticated simply by attaching it to an affidavit.); *Walker v. DeJoy*,  
13 2024 WL 2964082, at \*4 (C.D. Cal. April 30, 2024) (sustaining evidentiary objections  
14 because the plaintiff did not lay a foundation “by demonstrating where these documents  
15 originated, who prepared these documents, how Plaintiff obtained these documents, or  
16 whether Mr. Ellison has personal knowledge of these documents.”); *Beyene v. Coleman*  
17 *Sec. Services, Inc.*, 854 F.2d 1179, 1182 (9th Cir. 1988) (“It is not enough that [Plaintiff]  
18 characterizes the testimony as a ‘true and correct copy.’”).

19 Rokoko further objects to the 2020 Terms on the grounds that Plaintiff does not  
20 have personal knowledge of the 2020 Terms sufficient to lay a foundation. Fed. R. Evid.  
21 602. *See Dibble*, 429 F.2d at 602 (“The foundation is laid for receiving a document in  
22 evidence by the testimony of a witness with personal knowledge of the facts who attests  
23 to the identity and due execution of the document and, where appropriate, its delivery.”).

24  
25  
26  
27 <sup>1</sup> Pincites to documents filed on the docket refer to the automatically generated page  
28 numbers that appear at the bottom of each page.

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 Rokoko further objects to the 2020 Terms on the grounds that Plaintiff's  
2 Exhibit 1 purports to be Rokoko's 2020 Terms but Exhibit 1 is not an original document  
3 and is instead copied and pasted into a pleading. Fed. R. Evid. 1002.

4 Rokoko further objects to the 2020 Terms on the grounds that Plaintiff's affidavit  
5 does not establish personal knowledge, sufficiently describe facts that would be  
6 admissible in evidence, or show that Plaintiff is competent to testify. Fed. R. Civ. P.  
7 56(c)(4). Plaintiff's affidavit does not state any specific facts relevant to the 2020  
8 Terms. *See Suzuki Motor of Am. v. Mullion*, 2017 WL 7410992, at \*7 (C.D. Cal. Aug.  
9 15, 2017) (“[A] general averment of personal knowledge does not save [a declaration]  
10 where the substance of the declaration does not show actual personal knowledge of the  
11 facts.”).

12 **Separate Statement UMF 2:** Objection to Exhibit 2 (ECF No. 167-1 at 64-70),  
13 which appears to be a purported 2022 Pitch Deck, on the grounds that Plaintiff fails to  
14 lay a foundation to authenticate the document. Fed. R. Evid. 901. Plaintiff fails to  
15 address the 2022 Pitch Deck independently of other exhibits or with any specificity. *See*  
16 *Dibble*, 429 F.2d at 602 (“A writing is not authenticated simply by attaching it to an  
17 affidavit.”); *Walker*, 2024 WL 2964082, at \*4 (sustaining evidentiary objections because  
18 the plaintiff did not lay a foundation “by demonstrating where these documents  
19 originated, who prepared these documents, how Plaintiff obtained these documents, or  
20 whether Mr. Ellison has personal knowledge of these documents.”); *Beyene*, 854 F.2d  
21 at 1182 (“It is not enough that [Plaintiff] characterizes the testimony as a ‘true and  
22 correct copy.’”).

23 Rokoko further objects to the 2022 Pitch Deck on the grounds that Plaintiff does  
24 not have personal knowledge of the 2022 Pitch Deck sufficient to lay a foundation. Fed.  
25 R. Evid. 602. Plaintiff was not involved in the creation or presentation of the 2022 Pitch  
26 Deck. *See Dibble*, 429 F.2d at 602 (“The foundation is laid for receiving a document in  
27  
28

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 evidence by the testimony of a witness with personal knowledge of the facts who attests  
2 to the identity and due execution of the document and, where appropriate, its delivery.”).

3 Rokoko further objects to the 2022 Pitch Deck on the grounds that Plaintiff’s  
4 affidavit does not establish personal knowledge, sufficiently describe facts that would  
5 be admissible in evidence, or show that Plaintiff is competent to testify. Fed. R. Civ. P.  
6 56(c)(4). Plaintiff’s affidavit does not state any specific facts relevant to the 2022 Pitch  
7 Deck. *See Suzuki Motor of Am.*, 2017 WL 7410992, at \*7 (“[A] general averment of  
8 personal knowledge does not save [a declaration] where the substance of the declaration  
9 does not show actual personal knowledge of the facts.”).

10 **Separate Statement UMF 3:** Objection to Exhibit 3 (ECF No. 167-1 at 72),  
11 which appears to be a screenshot of code (“Coding Picture 1”), on the grounds that  
12 Plaintiff fails to lay a foundation to authenticate the image. Fed. R. Evid. 901. Plaintiff  
13 fails to address Coding Picture 1 independently of other exhibits or with any specificity.  
14 *See United States v. Niebla-Torres*, 678 Fed. Appx. 487, 489 (9th Cir. 2017) (“A  
15 photograph offered for illustrative purposes ‘is authenticated if the witness testifies that  
16 the photograph is a correct and accurate representation of relevant facts personally  
17 observed by the witness.”); *United States v. May*, 622 F.2d 1000, 1007 (9th Cir. 1980)  
18 (“Adequate foundation was presented detailing when and where the photographs were  
19 taken.”); *X17, Inc. v. Lavandeira*, 2007 WL 790061, at \*2 (C.D. Cal. March 6, 2007)  
20 (sustaining objection to exhibits because “[n]one of the documents is identified  
21 individually” and “[Plaintiff] merely describes its copies as ‘true and correct’ and legal  
22 papers as ‘valid,’ ‘timely submitted’ and so forth”).

23 Rokoko further objects to Coding Picture 1 on the grounds that it fails to  
24 demonstrate the process or system used and how that process/system produces accurate  
25 results. Fed. R. Evid. 901(b)(9); *United States v. Lizarraga-Tirado*, 789 F.3d 1107, 1110  
26 (9th Cir. 2015) (“So when faced with an authentication objection, the proponent of  
27 Google-Earth-generated evidence would have to establish Google Earth's reliability and  
28

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 accuracy. That burden could be met, for example, with testimony from a Google Earth  
2 programmer or a witness who frequently works with and relies on the program.”).

3 Rokoko further objects to Coding Picture 1 on the grounds that Plaintiff does not  
4 have personal knowledge of Coding Picture 1 sufficient to lay a foundation. Fed. R.  
5 Evid. 602. *See Aguilera v. Unocal Corp.*, 2023 WL 6369701, at \*7 (C.D. Cal. Aug. 14,  
6 2023) (“Mr. Kelley’s declaration does not demonstrate that he has personal knowledge  
7 of these documents... Mr. Kelley's declaration does not indicate who took the photos  
8 or created the drawing or that Mr. Kelley knows who created these documents.”).

9 Rokoko further objects to Coding Picture 1 on the grounds that Plaintiff’s  
10 affidavit does not establish personal knowledge, sufficiently describe facts that would  
11 be admissible in evidence, or show that Plaintiff is competent to testify. Fed. R. Civ. P.  
12 56(c)(4). Plaintiff’s affidavit does not state any specific facts relevant to Coding Picture  
13 1. *See Suzuki Motor of Am.*, 2017 WL 7410992, at \*7 (“[A] general averment of  
14 personal knowledge does not save [a declaration] where the substance of the declaration  
15 does not show actual personal knowledge of the facts.”).

16 Rokoko further objects to Coding Picture 1 on the grounds that the annotations  
17 on the photo constitute inadmissible hearsay to which no exception is applicable. Fed.  
18 R. Evid. 801, 802. To the extent the text is offered to prove the function of the code, it  
19 is inadmissible. “Hearsay is inadmissible, and therefore, cannot be considered at the  
20 summary judgment stage.” *Rosebrock v. Beiter*, 2011 WL 13214270, at \*5 (C.D. Cal.  
21 May 26, 2011).

22 Rokoko further objects to Coding Picture 1 on the grounds that it violates Cal.  
23 Pen. Code § 632. The video depicts Plaintiff using a “Man-in-the-Middle” attack on  
24 Rokoko’s software (noted in UMF 3 as “MITM Capture”) to intercept the electronic  
25 communications between Rokoko and Plaintiff. Rokoko did not consent to this  
26 interception. “[E]vidence obtained as a result of eavesdropping upon or recording a  
27 confidential communication in violation of this section is not admissible in any judicial,  
28

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 administrative, legislative, or other proceeding.” Cal. Pen. Code § 632(d). *Mitchell v.*  
2 *Sonesta Int’l Hotels Corp.*, 2024 WL 4471772, at \*11 (C.D. Cal Oct. 4, 2024) (“[T]here  
3 is nothing in Section 632 that excludes software from serving as an ‘electronic  
4 amplifying or recording device.’”).

5 **Separate Statement UMF 3:** Objection to Exhibit 3 (ECF No. 167-1 at 73),  
6 which purports to be a video accessed by QR code, on the grounds that Plaintiff fails to  
7 lay a foundation to authenticate the video. Fed. R. Evid. 901. Plaintiff fails to address  
8 Video 1 independently of other exhibits or with any specificity. *Sublime v. Sublime*  
9 *Remembered*, 2013 WL 3863960, at \*4 (C.D. Cal. July 22, 2013) (“In order to admit a  
10 video posted on youtube.com under the Federal Rules of Evidence, the proponent of the  
11 video ‘must produce evidence sufficient to support a finding that the item is what the  
12 proponent claims it is’. . . .”).

13 Rokoko further objects to Video 1 on the grounds that it fails to demonstrate the  
14 process or system used and how that process/system produces accurate results. Fed. R.  
15 Evid. 901(b)(9); *Lizarraga-Tirado*, 789 F.3d at 1110 (“So when faced with an  
16 authentication objection, the proponent of Google-Earth-generated evidence would  
17 have to establish Google Earth's reliability and accuracy. That burden could be met, for  
18 example, with testimony from a Google Earth programmer or a witness who frequently  
19 works with and relies on the program.”).

20 Rokoko further objects to Video 1 on the grounds that it violates Cal. Pen. Code  
21 § 632. The video depicts Plaintiff using a “Man-in-the-Middle” attack on Rokoko’s  
22 software (noted in UMF 3 as “MITM Capture”) to intercept the electronic  
23 communications between Rokoko and Plaintiff. Rokoko did not consent to this  
24 interception. “[E]vidence obtained as a result of eavesdropping upon or recording a  
25 confidential communication in violation of this section is not admissible in any judicial,  
26 administrative, legislative, or other proceeding.” Cal. Pen. Code § 632(d). *Mitchell*,

27  
28

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 2024 WL 4471772, at \*11. (“[T]here is nothing in Section 632 that excludes software  
2 from serving as an ‘electronic amplifying or recording device.’”).

3 Rokoko further objects to Video 1 on the grounds that Plaintiff fails to establish  
4 that he has personal knowledge of the video or its contents. Fed. R. Evid. 602.

5 Rokoko further objects to Video 1 on the grounds that the annotations on the  
6 video constitute inadmissible hearsay to which no exception is applicable. Fed. R. Evid.  
7 801, 802. To the extent the text is offered to prove the function of the code, it is  
8 inadmissible. “Hearsay is inadmissible, and therefore, cannot be considered at the  
9 summary judgment stage.” *Rosebrock*, 2011 WL 13214270, at \*5.

10 Rokoko further objects to Video 1 on the grounds that Plaintiff’s affidavit does  
11 not establish personal knowledge, sufficiently describe facts that would be admissible  
12 in evidence, or show that Plaintiff is competent to testify. Fed. R. Civ. P. 56(c)(4).  
13 Plaintiff’s affidavit does not state any specific facts relevant to Video 1. *See Suzuki*  
14 *Motor of Am.*, 2017 WL 7410992, at \*7 (“[A] general averment of personal knowledge  
15 does not save [a declaration] where the substance of the declaration does not show  
16 actual personal knowledge of the facts.”).

17 **Separate Statement UMF 3:** Objection to Exhibit 3 (ECF No. 167-1 at 74),  
18 which purports to be a video accessed by QR code, on the grounds that Plaintiff fails to  
19 lay a foundation to authenticate the video. Fed. R. Evid. 901. Plaintiff fails to address  
20 Video 2 independently of other exhibits or with any specificity. *Sublime*, 2013 WL  
21 3863960, at \*4 (“In order to admit a video posted on youtube.com under the Federal  
22 Rules of Evidence, the proponent of the video ‘must produce evidence sufficient to  
23 support a finding that the item is what the proponent claims it is’ . . .”).

24 Rokoko further objects to Video 2 on the grounds that it fails to demonstrate the  
25 process or system used and how that process/system produces accurate results. Fed. R.  
26 Evid. 901(b)(9); *Lizarraga-Tirado*, 789 F.3d at 1110 (“So when faced with an  
27 authentication objection, the proponent of Google-Earth-generated evidence would  
28

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 have to establish Google Earth's reliability and accuracy. That burden could be met, for  
2 example, with testimony from a Google Earth programmer or a witness who frequently  
3 works with and relies on the program.”).

4 Rokoko further objects to Video 2 on the grounds that it violates Cal. Pen. Code  
5 § 632. The video depicts Plaintiff using a “Man-in-the-Middle” attack on Rokoko’s  
6 software (noted in UMF 3 as “MITM Capture”) to intercept the electronic  
7 communications between Rokoko and Plaintiff. Rokoko did not consent to this  
8 interception. “[E]vidence obtained as a result of eavesdropping upon or recording a  
9 confidential communication in violation of this section is not admissible in any judicial,  
10 administrative, legislative, or other proceeding.” Cal. Pen. Code § 632(d). *Mitchell*,  
11 2024 WL 4471772, at \*11 (“[T]here is nothing in Section 632 that excludes software  
12 from serving as an ‘electronic amplifying or recording device.’”).

13 Rokoko further objects to Video 2 on the grounds that Plaintiff fails to establish  
14 that he has personal knowledge of the video or its contents. Fed. R. Evid. 602.

15 Rokoko further objects to Video 2 on the grounds that the annotations on the  
16 video constitute inadmissible hearsay to which no exception is applicable. Fed. R. Evid.  
17 801, 802. To the extent the text is offered to prove the function of the code, it is  
18 inadmissible. “Hearsay is inadmissible, and therefore, cannot be considered at the  
19 summary judgment stage.” *Rosebrock*, 2011 WL 13214270, at \*5.

20 Rokoko further objects to Video 2 on the grounds that Plaintiff’s affidavit does  
21 not establish personal knowledge, sufficiently describe facts that would be admissible  
22 in evidence, or show that Plaintiff is competent to testify. Fed. R. Civ. P. 56(c)(4).  
23 Plaintiff’s affidavit does not state any specific facts relevant to Video 2. *See Suzuki*  
24 *Motor of Am.*, 2017 WL 7410992, at \*7 (“[A] general averment of personal knowledge  
25 does not save [a declaration] where the substance of the declaration does not show  
26 actual personal knowledge of the facts.”).

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 **Separate Statement UMF 3:** Objection to “Exhibit 23 at pp. 1” on the grounds  
2 that it does not exist. Plaintiff’s evidence package only has 15 exhibits.

3 **Separate Statement UMF 3:** Objection to the purported “Expert Report”<sup>2</sup> (ECF  
4 No. 167-2) on the grounds that it offers improper intentionality and knowledge  
5 determinations. Expert Report, 13:229-31, 23:399-401, 37:682. *See Hill v. Novartis*  
6 *Pharms. Corp.*, 2012 WL 5451816, at \*2 (C.D. Cal. Nov. 6, 2012) (finding “testimony  
7 regarding Defendant’s intent, motives or state of mind to be impermissible and outside  
8 the scope of expert testimony.”). Rokoko further objects that the Expert Report contains  
9 a multitude of improper legal conclusions. *See* Expert Report, 33:598-601, 37:676-79,  
10 37:680-81 (contract interpretation). “An expert may not offer testimony on issues of  
11 law, but must instead limit his testimony to interpretation and analysis of factual  
12 evidence.” *United States ex rel. Jordan v. Northrop Grumman Corp.*, 2003 WL  
13 27366315, at \*3 (C.D. Cal. Feb. 24, 2003); *see also Crow Tribe of Indians v. Racicot*,  
14 87 F.3d 1039, 1045 (9th Cir. 1996) (declining to accept expert testimony on the legal  
15 issue of contract interpretation.”).

16 Rokoko further objects to the Expert Report on the grounds it fails to comply  
17 with Fed. R. Civ. P. 26(a)(2)(B) or Fed. R. Evid. 702. Plaintiff fails to provide any  
18 verifiable credentials. Namely, he states he went to evening college but does not list any  
19 degrees. Expert Report, 3:46-47. He does not list any professional certifications. Fed.  
20 R. Evid. 702. He states that he authored published security tools and his work has been  
21 featured by magazines, but does not provide a list. Expert Report, at 3:43-45. Fed. R.  
22 Civ. P. 26(a)(2)(B)(iv). While he states he has been retained as an expert, he fails to list  
23 any case names or that he actually testified. *Id.* at 2:32-35. Fed. R. Civ. P.

24  
25 <sup>2</sup> Rokoko reserves its right move to exclude Plaintiff’s “Expert Report” at a later date.  
26 As detailed in Rokoko’s opposition brief and request for relief under Fed. R. Civ.  
27 Proc. 56(d), Rokoko is not yet in a position to make such a motion as Plaintiff’s  
28 “Expert Report” was only recently served and Rokoko has not yet had a chance to  
take expert discovery.

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 26(a)(2)(B)(v). Plaintiff also does not establish that he has any knowledge of Rokoko’s  
2 operating systems. *See Perfect 10 v. Giganews, Inc.*, 2014 WL 10894452, at \*1 (C.D.  
3 Cal. Oct. 31, 2014) (excluding expert testimony because “[the expert] has never testified  
4 as an expert witness in any litigation before, has never published any books or peer-  
5 reviewed articles on any relevant topics at issue in this action... has no relevant  
6 academic training... and has virtually no understanding of Usenet technologies or  
7 Defendants' server-side operations.”).

8 Rokoko further objects to the Expert Report on the grounds asserts “facts” that  
9 are improper argumentative assertions. Expert Report, 12:219-20 (“Rokoko Harvesting  
10 Data Secretly”), 17:288 (“Manufactured Conflict of Fact”), 18:306-08 (“Final Suit-  
11 Destroying Firmware... his firmware immediately caused the Rokoko Smartsuit Hub  
12 and Sensors to not operate”), 25:434 (“Rokoko harvested my intellectual property”),  
13 27:478-79 (“Harvesting Intellectual Property By Ignoring User Preference”). These are  
14 just some of the examples. “[A]n expert report cannot be used to prove the existence of  
15 facts set forth therein.” *In re Citric Acid Litig.*, 191 F.3d 1090, 1102 (9th Cir. 1999).

16 Rokoko further objects that the Expert Report on the grounds that it violates Cal.  
17 Pen. Code § 632. The Expert Report describes Plaintiff bypassing encryptions, rerouting  
18 communications, and using a “Man-in-the-Middle” attack on Rokoko’s software to  
19 intercept the electronic communications between Rokoko and Plaintiff. Expert Report,  
20 19:332-21:368. Rokoko did not consent to this interception. “[E]vidence obtained as a  
21 result of eavesdropping upon or recording a confidential communication in violation of  
22 this section is not admissible in any judicial, administrative, legislative, or other  
23 proceeding.” Cal. Pen. Code § 632(d). *Mitchell*, 2024 WL 4471772, at \*11 (“[T]here is  
24 nothing in Section 632 that excludes software from serving as an ‘electronic amplifying  
25 or recording device.’”). The Expert Report attempts to address legality, but fails to  
26 address Cal. Pen. Code § 632, to which none of his “exceptions” apply.

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 Rokoko further objects to the Expert Report on the grounds that Plaintiff is  
2 improperly acting as an expert in his own case. Plaintiff has a financial interest in the  
3 outcome of this case, which is imputed to his expert testimony. *See Shtein v. Dignity*  
4 *Health*, 2022 WL 22870180, at \*3 (C.D. Cal. June 13, 2022) (stating “that  
5 allowing Plaintiff to testify as an ‘expert in his own case is akin to hiring an expert  
6 witness to testify on a contingency fee basis because [Plaintiff]’s recovery, if any, will  
7 be tied in part to his own testimony.”) (citing *Andreas Carlsson Prod., AB v. Barnes*,  
8 2012 WL 12911049, at \*2 (C.D. Cal. July 19, 2012)). “The better course of action is to  
9 exclude the testimony of expert witnesses in civil cases whose compensation is  
10 contingent on the outcome of the case.” *See Straughter v. Raymond*, 2011 WL 1789987,  
11 at \*3 (C.D. Cal. May 9, 2011).

12 **Separate Statement UMF 4:** Objection to Exhibit 4 (ECF No. 167-1 at 77-78),  
13 which purports to be screenshots from Plaintiff’s computer, on the grounds that Plaintiff  
14 fails to lay a foundation to authenticate the images. Fed. R. Evid. 901. Plaintiff fails to  
15 address the screenshots independently of other exhibits or with any specificity. Plaintiff  
16 provides no information on when the screenshots were taken, by who, or their source.  
17 *X17, Inc.*, 2007 WL 790061, at \*2 (sustaining objection to exhibits because “[n]one of  
18 the documents is identified individually” and “[Plaintiff] merely describes its copies as  
19 ‘true and correct’ and legal papers as ‘valid,’ ‘timely submitted’ and so forth”).

20 Rokoko further objects to Exhibit 4 on the grounds that Plaintiff fails to establish  
21 that he has personal knowledge of the screenshots or their content. Fed. R. Evid. 602.

22 Rokoko further objects to Exhibit 4 on the grounds that Plaintiff’s affidavit does  
23 not establish personal knowledge, sufficiently describe facts that would be admissible  
24 in evidence, or show that Plaintiff is competent to testify. Fed. R. Civ. P. 56(c)(4).  
25 Plaintiff’s affidavit does not state any specific facts relevant to the screenshots. *See*  
26 *Suzuki Motor of Am.*, 2017 WL 7410992, at \*7 (“[A] general averment of personal  
27  
28

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 knowledge does not save [a declaration] where the substance of the declaration does not  
2 show actual personal knowledge of the facts.”).

3 Rokoko further objects to Exhibit 4 on the grounds that the annotations on the  
4 screenshots constitute inadmissible hearsay to which no exception is applicable. Fed.  
5 R. Evid. 801, 802. To the extent the text is offered to prove the contents of the  
6 screenshot, it is inadmissible. “Hearsay is inadmissible, and therefore, cannot be  
7 considered at the summary judgment stage.” *Rosebrock*, 2011 WL 13214270, at \*5.

8 **Separate Statement UMF 5:** Objection to Exhibit 5 (ECF No. 167-1 at 79-99),  
9 which appears to be Rokoko’s 2022 Terms, on the grounds that Plaintiff fails to lay a  
10 foundation to authenticate the document. Fed. R. Evid. 901. Plaintiff fails to address the  
11 2022 Terms independently of other exhibits or with any specificity. *See Dibble*, 429  
12 F.2d at 602 (“A writing is not authenticated simply by attaching it to an affidavit.);  
13 *Walker*, 2024 WL 2964082, at \*4 (sustaining evidentiary objections because the  
14 plaintiff did not lay a foundation “by demonstrating where these documents originated,  
15 who prepared these documents, how Plaintiff obtained these documents, or whether Mr.  
16 Ellison has personal knowledge of these documents.”); *Beyene*, 854 F.2d at 1182 (“It is  
17 not enough that [Plaintiff] characterizes the testimony as a ‘true and correct copy.’”).

18 Rokoko further objects to the supposed 2022 Terms on the grounds that Plaintiff  
19 does not have personal knowledge of the 2022 Terms sufficient to lay a foundation.  
20 Fed. R. Evid. 602. *See Dibble*, 429 F.2d at 602 (“The foundation is laid for receiving a  
21 document in evidence by the testimony of a witness with personal knowledge of the  
22 facts who attests to the identity and due execution of the document and, where  
23 appropriate, its delivery.”).

24 Rokoko further objects to the purported 2022 Terms on the grounds that  
25 Plaintiff’s Exhibit 5 purports to be Rokoko’s 2022 Terms but Exhibit 5 is not an original  
26 document and is instead copied and pasted into a pleading. Fed. R. Evid. 1002.

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 Rokoko further objects to the 2022 Terms on the grounds that Plaintiff’s affidavit  
2 does not establish personal knowledge, sufficiently describe facts that would be  
3 admissible in evidence, or show that Plaintiff is competent to testify. Fed. R. Civ. P.  
4 56(c)(4). Plaintiff’s affidavit does not state any specific facts relevant to the 2022  
5 Terms. *See Suzuki Motor of Am.*, 2017 WL 7410992, at \*7 (“[A] general averment of  
6 personal knowledge does not save [a declaration] where the substance of the declaration  
7 does not show actual personal knowledge of the facts.”).

8 **Separate Statement UMF 6:** Objection to Exhibit 5 (ECF No. 167-1 at 79-99),  
9 which appears to be Rokoko’s purported 2022 Terms, on the grounds that Plaintiff fails  
10 to lay a foundation to authenticate the document. Fed. R. Evid. 901. Plaintiff fails to  
11 address the 2022 Terms independently of other exhibits or with any specificity. *See*  
12 *Dibble*, 429 F.2d at 602 (“A writing is not authenticated simply by attaching it to an  
13 affidavit.”); *Walker*, 2024 WL 2964082, at \*4 (sustaining evidentiary objections because  
14 the plaintiff did not lay a foundation “by demonstrating where these documents  
15 originated, who prepared these documents, how Plaintiff obtained these documents, or  
16 whether Mr. Ellison has personal knowledge of these documents.”); *Beyene*, 854 F.2d  
17 at 1182 (“It is not enough that [Plaintiff] characterizes the testimony as a ‘true and  
18 correct copy.’”).

19 Rokoko further objects to the supposed 2022 Terms on the grounds that Plaintiff  
20 does not have personal knowledge of the 2022 Terms sufficient to lay a foundation.  
21 Fed. R. Evid. 602. *See Dibble*, 429 F.2d at 602 (“The foundation is laid for receiving a  
22 document in evidence by the testimony of a witness with personal knowledge of the  
23 facts who attests to the identity and due execution of the document and, where  
24 appropriate, its delivery.”). Plaintiff was not involved in the drafting or execution of the  
25 2022 Terms.

26  
27  
28

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 Rokoko further objects to the purported 2022 Terms on the grounds that  
2 Plaintiff’s Exhibit 5 purports to be Rokoko’s 2022 Terms but Exhibit 5 is not an original  
3 document and is instead copied and pasted into a pleading. Fed. R. Evid. 1002.

4 Rokoko further objects to the 2022 Terms on the grounds that Plaintiff’s affidavit  
5 does not establish personal knowledge, sufficiently describe facts that would be  
6 admissible in evidence, or show that Plaintiff is competent to testify. Fed. R. Civ. P.  
7 56(c)(4). Plaintiff’s affidavit does not state any specific facts relevant to the 2022  
8 Terms. *See Suzuki Motor of Am.*, 2017 WL 7410992, at \*7 (“[A] general averment of  
9 personal knowledge does not save [a declaration] where the substance of the declaration  
10 does not show actual personal knowledge of the facts.”).

11 **Separate Statement UMF 8:** Objection to Exhibit 8 (ECF No. 167-1 at 116-23),  
12 which appears to be Rokoko’s purported 2025 Terms and Conditions (“2025 Terms”),  
13 on the grounds that Plaintiff fails to lay a foundation to authenticate the document. Fed.  
14 R. Evid. 901. Plaintiff fails to address the 2025 Terms independently of other exhibits  
15 or with any specificity. *See Dibble*, 429 F.2d at 602 (“A writing is not authenticated  
16 simply by attaching it to an affidavit.”); *Walker*, 2024 WL 2964082, at \*4 (sustaining  
17 evidentiary objections because the plaintiff did not lay a foundation “by demonstrating  
18 where these documents originated, who prepared these documents, how Plaintiff  
19 obtained these documents, or whether Mr. Ellison has personal knowledge of these  
20 documents.”); *Beyene*, 854 F.2d at 1182 (“It is not enough that [Plaintiff] characterizes  
21 the testimony as a ‘true and correct copy.’”).

22 Rokoko further objects to the supposed 2025 Terms on the grounds that Plaintiff  
23 does not have personal knowledge of the 2025 Terms sufficient to lay a foundation.  
24 Fed. R. Evid. 602. *See Dibble*, 429 F.2d at 602 (“The foundation is laid for receiving a  
25 document in evidence by the testimony of a witness with personal knowledge of the  
26 facts who attests to the identity and due execution of the document and, where  
27  
28

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 appropriate, its delivery.”). Plaintiff was not involved in the drafting or execution of the  
2 2025 Terms.

3 Rokoko further objects to the purported 2025 Terms on the grounds that  
4 Plaintiff’s Exhibit 8 purports to be Rokoko’s 2025 Terms but Exhibit 8 is not an original  
5 document and is instead copied and pasted into a pleading. Fed. R. Evid. 1002.

6 Rokoko further objects to the 2025 Terms on the grounds that Plaintiff’s affidavit  
7 does not establish personal knowledge, sufficiently describe facts that would be  
8 admissible in evidence, or show that Plaintiff is competent to testify. Fed. R. Civ. P.  
9 56(c)(4). Plaintiff’s affidavit does not state any specific facts relevant to the 2025  
10 Terms. *See Suzuki Motor of Am.*, 2017 WL 7410992, at \*7 (“[A] general averment of  
11 personal knowledge does not save [a declaration] where the substance of the declaration  
12 does not show actual personal knowledge of the facts.”).

13 **Separate Statement UMF 9:** Objection to Exhibit 9 (ECF No. 167-1 at 125-29),  
14 which appears to be purported screenshots from Rokoko’s website, on the grounds that  
15 Plaintiff fails to lay a foundation to authenticate the images. Fed. R. Evid. 901. Plaintiff  
16 fails to address the screenshots independently of other exhibits or with any specificity.  
17 Plaintiff provides no information on when the screenshots were taken, by who, or their  
18 source. *See In re Homestore.com, Inc. Sec. Litig.*, 347 F. Supp. 2d 769, 782-83 (C.D.  
19 Cal. 2004) (“Although the documents bear the URL address and date stamp, they are  
20 improperly authenticated by Plaintiffs’ declaration. Printouts from a web site do not  
21 bear the indicia of reliability demanded for other self-authenticating documents under  
22 Fed. R. Evid. 902. To be authenticated, some statement or affidavit from someone with  
23 knowledge is required; for example, Homestore’s web master or someone else with  
24 personal knowledge would be sufficient.”); *Internet Specialties West, Inc. v. Ispwest*,  
25 2006 WL 4568796, at \*1 (C.D. Cal. Sept. 19, 2006) (“Defendant’s argument, that they  
26 could be ‘authenticated’ by the person who went to the website and printed out the home  
27 page, is unavailing” because “[i]t is now well recognized that ‘[a]nyone can put

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 anything on the internet. No website is monitored for accuracy and nothing contained  
2 therein is under oath or even subject to independent verification absent underlying  
3 documentation... hackers can adulterate the content on any web-site from any location  
4 at any time. For these reasons, any evidence procured off the Internet is adequate for  
5 almost nothing...”); *X17, Inc.*, 2007 WL 790061, at \*2 (sustaining objection to exhibits  
6 because “[n]one of the documents is identified individually” and “[Plaintiff] merely  
7 describes its copies as ‘true and correct’ and legal papers as ‘valid,’ ‘timely submitted’  
8 and so forth”).

9 Rokoko further objects to Exhibit 9 on the grounds that Plaintiff fails to establish  
10 that he has personal knowledge of the screenshots or their content. Fed. R. Evid. 602.

11 Rokoko further objects to Exhibit 9 on the grounds that Plaintiff’s affidavit does  
12 not establish personal knowledge, sufficiently describe facts that would be admissible  
13 in evidence, or show that Plaintiff is competent to testify. Fed. R. Civ. P. 56(c)(4).  
14 Plaintiff’s affidavit does not state any specific facts relevant to the screenshots. *See*  
15 *Suzuki Motor of Am.*, 2017 WL 7410992, at \*7 (“[A] general averment of personal  
16 knowledge does not save [a declaration] where the substance of the declaration does not  
17 show actual personal knowledge of the facts.”).

18 Rokoko further objects to Exhibit 9 on the grounds that the annotations on the  
19 screenshots constitute inadmissible hearsay to which no exception is applicable. Fed.  
20 R. Evid. 801, 802. To the extent the text is offered to prove the contents of the  
21 screenshot, it is inadmissible. “Hearsay is inadmissible, and therefore, cannot be  
22 considered at the summary judgment stage.” *Rosebrock*, 2011 WL 13214270, at \*5.

23 **Separate Statement UMF 10:** Objection to Exhibit 10 (ECF No. 167-1 at 131)  
24 on the grounds that it consists of a self-selected excerpt of a Court filing. Fed. R. Evid.  
25 106. Furthermore, Plaintiff failed to request judicial notice of this court document, and  
26 in any event, “[c]ourts cannot take judicial notice of the contents of documents for the  
27 truth of the matters asserted therein when the facts are disputed. . . .” *Cal. Sportfishing*

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 *Prot. All. v. Shiloh Grp., LLC*, 268 F. Supp. 3d 1029, 1038 (N.D. Cal. 2017). While  
2 Plaintiff previously represented in court filings that he terminated his use of Rokoko’s  
3 products, the evidence has revealed this representation to be false.

4 **Separate Statement UMF 11:** Objection to Exhibit 11 (ECF No. 167-1 at 133),  
5 which appears to be a purported screenshot of code (“Coding Picture 2”), on the grounds  
6 that Plaintiff fails to lay a foundation to authenticate the image. Fed. R. Evid. 901.  
7 Plaintiff fails to address Coding Picture 2 independently of other exhibits or with any  
8 specificity. *See Niebla-Torres*, 678 Fed. Appx. at 489 (“A photograph offered for  
9 illustrative purposes ‘is authenticated if the witness testifies that the photograph is a  
10 correct and accurate representation of relevant facts personally observed by the  
11 witness.”); *May*, 622 F.2d at 1007 (“Adequate foundation was presented detailing when  
12 and where the photographs were taken.”); *X17, Inc.*, 2007 WL 790061, at \*2 (sustaining  
13 objection to exhibits because “[n]one of the documents is identified individually” and  
14 “[Plaintiff] merely describes its copies as ‘true and correct’ and legal papers as ‘valid,’  
15 ‘timely submitted’ and so forth”).

16 Rokoko further objects to Coding Picture 2 on the grounds that it fails to  
17 demonstrate the process or system used and how that process/system produces accurate  
18 results. Fed. R. Evid. 901(b)(9); *Lizarraga-Tirado*, 789 F.3d at 1110 (“So when faced  
19 with an authentication objection, the proponent of Google-Earth-generated evidence  
20 would have to establish Google Earth's reliability and accuracy. That burden could be  
21 met, for example, with testimony from a Google Earth programmer or a witness who  
22 frequently works with and relies on the program.”).

23 Rokoko further objects to Coding Picture 2 on the grounds that Plaintiff does not  
24 have personal knowledge of Coding Picture 2 sufficient to lay a foundation. Fed. R.  
25 Evid. 602. *See Aguilera*, 2023 WL 6369701, at \*7 (“Mr. Kelley's declaration does not  
26 demonstrate that he has personal knowledge of these documents... Mr. Kelley's  
27  
28

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 declaration does not indicate who took the photos or created the drawing or that Mr.  
2 Kelley knows who created these documents.”).

3 Rokoko further objects to Coding Picture 2 on the grounds that Plaintiff’s  
4 affidavit does not establish personal knowledge, sufficiently describe facts that would  
5 be admissible in evidence, or show that Plaintiff is competent to testify. Fed. R. Civ. P.  
6 56(c)(4). Plaintiff’s affidavit does not state any specific facts relevant to Coding Picture  
7 2. *See Suzuki Motor of Am.*, 2017 WL 7410992, at \*7 (“[A] general averment of  
8 personal knowledge does not save [a declaration] where the substance of the declaration  
9 does not show actual personal knowledge of the facts.”).

10 Rokoko further objects to Coding Picture 2 on the grounds that the annotations  
11 on the photo constitute inadmissible hearsay to which no exception is applicable. Fed.  
12 R. Evid. 801, 802. To the extent the text is offered to prove the function of the code, it  
13 is inadmissible. “Hearsay is inadmissible, and therefore, cannot be considered at the  
14 summary judgment stage.” *Rosebrock*, 2011 WL 13214270, at \*5.

15 Rokoko further objects to Coding Picture 2 on the grounds that it violates Cal.  
16 Pen. Code § 632. The video depicts Plaintiff using a “Man-in-the-Middle” attack on  
17 Rokoko’s software (noted in UMF 11 as “MITM Capture”) to intercept the electronic  
18 communications between Rokoko and Plaintiff. Rokoko did not consent to this  
19 interception. “[E]vidence obtained as a result of eavesdropping upon or recording a  
20 confidential communication in violation of this section is not admissible in any judicial,  
21 administrative, legislative, or other proceeding.” Cal. Pen. Code § 632(d). *Mitchell*,  
22 2024 WL 4471772, at \*11. (“[T]here is nothing in Section 632 that excludes software  
23 from serving as an ‘electronic amplifying or recording device.’”).

24 **Separate Statement UMF 12:** Rokoko does not object to Exhibit 12 being used  
25 to show Plaintiff’s Copyright Registration. Rokoko notes that Plaintiff has not laid a  
26 proper foundation under Fed. R. Evid. 901. Further, Exhibit 12 is a picture of Plaintiff’s  
27 Copyright Registration, not an original copy, so it is not self-authenticating under Fed.

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 R. Evid. 902. Rokoko further notes that the Copyright Registration is improperly  
2 redacted.

3 **Separate Statement UMF 13:** Objection to Exhibit 13 (ECF No. 167-1 at 137-  
4 38), which purports to be a screenshot from Plaintiff’s computer, on the grounds that  
5 Plaintiff fails to lay a foundation to authenticate the images. Fed. R. Evid. 901. Plaintiff  
6 fails to address the screenshots independently of other exhibits or with any specificity.  
7 Plaintiff provides no information on when the screenshots were taken, by who, or their  
8 source. *X17, Inc.*, 2007 WL 790061, at \*2 (sustaining objection to exhibits because  
9 “[n]one of the documents is identified individually” and “[Plaintiff] merely describes  
10 its copies as ‘true and correct’ and legal papers as ‘valid,’ ‘timely submitted’ and so  
11 forth”).

12 Rokoko further objects to the screenshots in Exhibit 13 on the grounds that  
13 Plaintiff fails to establish that he has personal knowledge of the screenshots or their  
14 content. Fed. R. Evid. 602. Rokoko further objects to the screenshots in Exhibit 13 on  
15 the grounds that Plaintiff’s affidavit does not establish personal knowledge, sufficiently  
16 describe facts that would be admissible in evidence, or show that Plaintiff is competent  
17 to testify. Fed. R. Civ. P. 56(c)(4). Plaintiff’s affidavit does not state any specific facts  
18 relevant to the screenshots. *See Suzuki Motor of Am.*, 2017 WL 7410992, at \*7 (“[A]  
19 general averment of personal knowledge does not save [a declaration] where the  
20 substance of the declaration does not show actual personal knowledge of the facts.”).

21 **Separate Statement UMF 13:** Objection to Exhibit 13 (ECF No. 167-1 at 139),  
22 which purports to be a social media post by Plaintiff (“Social Media 1”), on the grounds  
23 that on the grounds that Plaintiff fails to lay a foundation to authenticate the image. Fed.  
24 R. Evid. 901. Plaintiff fails to address Social Media 1 independently of other exhibits  
25 or with any specificity. Plaintiff provides no information on when the screenshots were  
26 taken, by who, or their source. *X17, Inc.*, 2007 WL 790061, at \*2 (sustaining objection  
27 to exhibits because “[n]one of the documents is identified individually” and “[Plaintiff]  
28

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 merely describes its copies as ‘true and correct’ and legal papers as ‘valid,’ ‘timely  
2 submitted’ and so forth”). Rokoko further objects to Social Media 1 on the grounds  
3 that Plaintiff fails to establish that he has personal knowledge of the screenshots or their  
4 content. Fed. R. Evid. 602.

5 Rokoko further objects to Social Media 1 on the grounds that Plaintiff’s affidavit  
6 does not establish personal knowledge, sufficiently describe facts that would be  
7 admissible in evidence, or show that Plaintiff is competent to testify. Fed. R. Civ. P.  
8 56(c)(4). Plaintiff’s affidavit does not state any specific facts relevant to Social Media  
9 1. *See Suzuki Motor of Am.*, 2017 WL 7410992, at \*7 (“[A] general averment of  
10 personal knowledge does not save [a declaration] where the substance of the declaration  
11 does not show actual personal knowledge of the facts.”).

12 Rokoko further objects to Social Media 1 on the grounds that the post constitutes  
13 inadmissible hearsay to which no exception is applicable. Fed. R. Evid. 801, 802. To  
14 the extent the post is offered to prove the contents of the image, it is inadmissible.  
15 “Hearsay is inadmissible, and therefore, cannot be considered at the summary judgment  
16 stage.” *Rosebrock*, 2011 WL 13214270, at \*5.

17 **Separate Statement UMF 14:** Objection to Exhibit 14 (ECF No. 167-1 at 141),  
18 which purports to be a screenshot from Plaintiff’s computer, on the grounds that  
19 Plaintiff fails to lay a foundation to authenticate the image. Fed. R. Evid. 901. Plaintiff  
20 fails to address the screenshot independently of other exhibits or with any specificity.  
21 Plaintiff provides no information on when the screenshot was taken, by who, or its  
22 source. *X17, Inc.*, 2007 WL 790061, at \*2 (sustaining objection to exhibits because  
23 “[n]one of the documents is identified individually” and “[Plaintiff] merely describes  
24 its copies as ‘true and correct’ and legal papers as ‘valid,’ ‘timely submitted’ and so  
25 forth”).

26 Rokoko further objects to Exhibit 14 on the grounds that Plaintiff fails to establish  
27 that he has personal knowledge of the screenshots or their content. Fed. R. Evid. 602.

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 Rokoko further objects to Exhibit 14 on the grounds that Plaintiff’s affidavit does not  
2 establish personal knowledge, sufficiently describe facts that would be admissible in  
3 evidence, or show that Plaintiff is competent to testify. Fed. R. Civ. P. 56(c)(4).  
4 Plaintiff’s affidavit does not state any specific facts relevant to the screenshot. *See*  
5 *Suzuki Motor of Am.*, 2017 WL 7410992, at \*7 (“[A] general averment of personal  
6 knowledge does not save [a declaration] where the substance of the declaration does not  
7 show actual personal knowledge of the facts.”).

8 **Exhibit 6:** Objection to Exhibit 6 (ECF No. 167-1 at 100-13), which purports to  
9 be photographs of the creation of The Next World, on the grounds that it is not cited in  
10 Plaintiff’s Separate Statement. Rokoko further objects to Exhibit 6 on the grounds that  
11 on the grounds that Plaintiff fails to lay a foundation to authenticate the images. Fed. R.  
12 Evid. 901. Plaintiff fails to address Exhibit 6 independently of other exhibits or with  
13 any specificity. Plaintiff provides no information on when the images were taken, by  
14 who, or their source. *X17, Inc.*, 2007 WL 790061, at \*2 (sustaining objection to exhibits  
15 because “[n]one of the documents is identified individually” and “[Plaintiff] merely  
16 describes its copies as ‘true and correct’ and legal papers as ‘valid,’ ‘timely submitted’  
17 and so forth”).

18 Rokoko further objects to Exhibit 6 on the grounds that Plaintiff fails to establish  
19 that he has personal knowledge of the images or their content. Fed. R. Evid. 602.

20 Rokoko further objects to Exhibit 6 on the grounds that Plaintiff’s affidavit does  
21 not establish personal knowledge, sufficiently describe facts that would be admissible  
22 in evidence, or show that Plaintiff is competent to testify. Fed. R. Civ. P. 56(c)(4).  
23 Plaintiff’s affidavit does not state any specific facts relevant to Exhibit 6. *See Suzuki*  
24 *Motor of Am.*, 2017 WL 7410992, at \*7 (“[A] general averment of personal knowledge  
25 does not save [a declaration] where the substance of the declaration does not show  
26 actual personal knowledge of the facts.”).

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1           **Exhibit 15:** Objection to Exhibit 15 (ECF No. 167-1 at 143), which purports to  
2 be screenshots from Rokoko’s website, on the grounds that it is not cited in Plaintiff’s  
3 Motion for Partial Summary Judgment or Separate Statement.

4           Rokoko further objects to Exhibit 15 on the grounds that Plaintiff fails to lay a  
5 foundation to authenticate the images. Fed. R. Evid. 901. Plaintiff fails to address the  
6 screenshots independently of other exhibits or with any specificity. Plaintiff provides  
7 no information on when the screenshots were taken, by who, or their source. *See In re*  
8 *Homestore.com, Inc. Sec. Litig.*, 347 F. Supp. 2d at 782-83 (“Although the documents  
9 bear the URL address and date stamp, they are improperly authenticated by Plaintiffs’  
10 declaration. Printouts from a web site do not bear the indicia of reliability demanded for  
11 other self-authenticating documents under Fed. R. Evid. 902. To be authenticated, some  
12 statement or affidavit from someone with knowledge is required; for example,  
13 Homestore's web master or someone else with personal knowledge would be  
14 sufficient.”).

15           “Defendant's argument, that they could be ‘authenticated’ by the person who  
16 went to the website and printed out the home page, is unavailing” because “[i]t is now  
17 well recognized that ‘[a]nyone can put anything on the internet. No website is monitored  
18 for accuracy and nothing contained therein is under oath or even subject to independent  
19 verification absent underlying documentation... hackers can adulterate the content on  
20 any web-site from any location at any time. For these reasons, any evidence procured  
21 off the Internet is adequate for almost nothing...” *Ispwest*, 2006 WL 4568796, at \*1;  
22 *X17, Inc.*, 2007 WL 790061, at \*2 (sustaining objection to exhibits because “[n]one of  
23 the documents is identified individually” and “[Plaintiff] merely describes its copies as  
24 ‘true and correct’ and legal papers as ‘valid,’ ‘timely submitted’ and so forth”).

25           Rokoko further objects to Exhibit 15 on the grounds that Plaintiff fails to establish  
26 that he has personal knowledge of the screenshots or their content. Fed. R. Evid. 602.  
27 Rokoko further objects to Exhibit 15 on the grounds that Plaintiff’s affidavit does not  
28

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 establish personal knowledge, sufficiently describe facts that would be admissible in  
2 evidence, or show that Plaintiff is competent to testify. Fed. R. Civ. P. 56(c)(4).  
3 Plaintiff’s affidavit does not state any specific facts relevant to the screenshots. *See*  
4 *Suzuki Motor of Am.*, 2017 WL 7410992, at \*7 (“[A] general averment of personal  
5 knowledge does not save [a declaration] where the substance of the declaration does not  
6 show actual personal knowledge of the facts.”).

7 **Exhibit 15:** Objection to Exhibit 15 (ECF No. 167-1 at 144-45), which purports  
8 to be screenshots from Plaintiff’s computer, on the grounds that it is not cited in  
9 Plaintiff’s Motion for Partial Summary Judgment or Separate Statement. Rokoko  
10 further objects to Exhibit 15 of Plaintiff’s evidence (p. 141) on the grounds that Plaintiff  
11 fails to lay a foundation to authenticate the images. Fed. R. Evid. 901. Plaintiff fails to  
12 address the screenshots independently of other exhibits or with any specificity. Plaintiff  
13 provides no information on when the screenshot was taken, by who, or its source. *X17,*  
14 *Inc.*, 2007 WL 790061, at \*2 (sustaining objection to exhibits because “[n]one of the  
15 documents is identified individually” and “[Plaintiff] merely describes its copies as  
16 ‘true and correct’ and legal papers as ‘valid,’ ‘timely submitted’ and so forth”).

17 Rokoko further objects to Exhibit 15 on the grounds that Plaintiff fails to establish  
18 that he has personal knowledge of the screenshots or their content. Fed. R. Evid. 602.  
19 Rokoko further objects to Exhibit 15 on the grounds that Plaintiff’s affidavit does not  
20 establish personal knowledge, sufficiently describe facts that would be admissible in  
21 evidence, or show that Plaintiff is competent to testify. Fed. R. Civ. P. 56(c)(4).  
22 Plaintiff’s affidavit does not state any specific facts relevant to the screenshots. *See*  
23 *Suzuki Motor of Am.*, 2017 WL 7410992, at \*7 (“[A] general averment of personal  
24 knowledge does not save [a declaration] where the substance of the declaration does not  
25 show actual personal knowledge of the facts.”).

26 Rokoko further objects to Exhibit 15 on the grounds that Plaintiff fails to  
27 demonstrate the process or system used and how that process/system produces accurate  
28

1 results. Fed. R. Evid. 901(b)(9); *Lizarraga-Tirado*, 789 F.3d at 1110 (“So when faced  
2 with an authentication objection, the proponent of Google-Earth-generated evidence  
3 would have to establish Google Earth's reliability and accuracy. That burden could be  
4 met, for example, with testimony from a Google Earth programmer or a witness who  
5 frequently works with and relies on the program.”).

6  
7 DATED: April 27, 2026

REED SMITH LLP

8  
9 By: /s/ Katherine J. Ellena  
10 Katherine J. Ellena  
11 Michael Galibois (*pro hac vice*)  
12 Emily Graue (*pro hac vice*)  
13 Valentino Gorospe IV

14 *Attorneys for Defendant*  
15 *Rokoko Electronics*  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware