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

15 MATTHEW R. WALSH

16 Plaintiff,

17 vs.

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

19 Defendant.

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

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

**DEFENDANT ROKOKO  
ELECTRONICS' RESPONSE TO  
PLAINTIFF'S SEPARATE  
STATEMENT OF UNDISPUTED  
MATERIAL FACTS**

[*Concurrently filed with Opposition to  
Plaintiff's Partial Motion for Summary  
Judgment; Evidentiary Objections;  
Declarations of Mikkel Overby and  
Katherine Ellena*]

**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

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**DEFENDANT’S STATEMENT OF GENUINE ISSUES OF MATERIAL FACT**

Pursuant to L.R. 56-2 and this Court’s Standing Scheduling and Case Management Order, Defendant Rokoko Electronics (“Defendant” or “Rokoko”) hereby responds to Plaintiff Matthew R. Walsh’s (“Plaintiff,” and together with Rokoko, “Parties”) Separate Statement of Undisputed Material Facts in Support of His Motion for Partial Summary Judgment (ECF No. 167-3).

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<b>PLAINTIFF’S UNDISPUTED MATERIAL FACT (“UMF”) AND SUPPORTING EVIDENCE</b>	<b>DEFENDANT’S RESPONSE</b>
<b>UMF 1:</b> Plaintiff Agreed to the 2020 Terms & Conditions	<p><i>Plaintiff’s Evidence:</i> Declaration of Matthew R. Walsh (ECF No. 167-1) (“Walsh Decl.”), Ex. 1</p> <p><b>Undisputed</b> for purposes of this motion that Plaintiff agreed to the 2020 Terms &amp; Conditions. However, Plaintiff has not submitted sufficient admissible evidence to support this fact.</p> <p><i>Defendant’s Response:</i> FRE 602, 901, 1002; Fed. R. Civ. P. 56(c)(4)</p>
<b>UMF 2:</b> Rokoko released a pitch deck in 2022.	<p><i>Plaintiff’s Evidence:</i> Walsh Decl., Ex. 2</p> <p><b>Disputed</b> as to the sufficiency of the evidence presented by Plaintiff. Plaintiff’s Exhibit 2 appears to be screenshots of a “pitch deck” that were taken from a website titled bestpitchdeck.com, it does not appear to be an original or complete copy of a pitch deck, and has been annotated by Plaintiff.</p> <p><i>Defendant’s Response:</i> FRE 602, 801, 802, 901; Cal. Pen. Code §§ 629.51(2), 632; Fed. R. Civ. P. 56(c)(4)</p>

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PLAINTIFF’S UNDISPUTED MATERIAL FACT (“UMF”) AND SUPPORTING EVIDENCE	DEFENDANT’S RESPONSE
<p><b>UMF 3:</b> Plaintiff never paid for the ‘Teams’ service. “Skip_Asset_Sync” is set to False</p>	<p><i>Plaintiff’s Evidence:</i> Walsh Decl., Exs. 3, 23; Expert Report of Matthew R. Walsh (ECF No. 167-2) (“Walsh Report”), p. 27(iii).</p> <p><b>Disputed</b> as to the sufficiency of the evidence presented by Plaintiff. Plaintiff’s Exhibit 3 appears to be a screenshot of code and a video (accessed via QR code) that have been annotated by Plaintiff. Neither the image of code nor video have been authenticated, nor does Plaintiff explain or demonstrate how the process or system allegedly portrayed produces results or lay the foundation for the interpretation of those results.</p> <p><i>Defendant’s Response:</i> FRE 602, 801, 802, 901; Cal. Pen. Code §§ 629.51(2), 632, 638.50(a); Fed. R. Civ. P. 26(a)(2)(B)(iv-v), 56(c)(4)</p>
<p><b>UMF 4:</b> Defendant produced hundreds of Plaintiff’s animation files in response to Requests for Production.</p>	<p><i>Plaintiff’s Evidence:</i> Walsh Decl., Ex. 4</p> <p><b>Undisputed</b>, for purposes of this motion, but immaterial that Defendant produced Plaintiff’s animation files in response to Requests for Production. However, Plaintiff has not submitted sufficient admissible evidence sufficient to support this fact. Plaintiff’s Exhibit 4 appears to be screenshots of file information taken on Plaintiff’s computer that have not been authenticated and have been annotated by Plaintiff.</p> <p><i>Defendant’s Response:</i> FRE 602, 801, 802, 901; Fed. R. Civ. P. 56(c)(4)</p>

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<b>PLAINTIFF’S UNDISPUTED MATERIAL FACT (“UMF”) AND SUPPORTING EVIDENCE</b>	<b>DEFENDANT’S RESPONSE</b>
<p><b>UMF 5:</b> Defendant enacted a new agreement in 2022.</p>	<p><i>Plaintiff’s Evidence:</i> Walsh Decl, Ex. 5</p> <p><b>Undisputed</b> for purposes of this motion that Rokoko updated its Terms &amp; Conditions in 2022. However, Plaintiff has not submitted sufficient admissible evidence to support this fact. Plaintiff’s Exhibit 5 appears to be a copy-pasted version of the supposed 2022 Terms and not an original, authenticated document.</p> <p><i>Defendant’s Response:</i> Declaration of Mikkel Overby (“Overby Decl.”), ¶ 16, Ex. C at 22-26; FRE 602, 901, 1002; Fed. R. Civ. P. 56(c)(4)</p>
<p><b>UMF 6:</b> Rokoko’s 2022 Terms &amp; Conditions state: “we do not claim ownership over any User Content.”</p>	<p><i>Plaintiff’s Evidence:</i> Walsh Decl., Ex. 5</p> <p><b>Undisputed</b> for purposes of this motion that Rokoko’s 2022 Terms &amp; Conditions contain the cited language. However, Plaintiff has not submitted sufficient admissible evidence to support this fact. Plaintiff’s Exhibit 5 appears to be a copy-pasted version of the supposed 2022 Terms and not an original, authenticated document.</p> <p><i>Defendant’s Response:</i> Overby Decl., ¶16, Ex. C at 22-26; FRE 602, 901, 1002; Fed. R. Civ. P. 56(c)(4)</p>
<p><b>UMF 7:</b> Defendant notified users that effective March 22, 2025, its Terms of Use would be updated to allow use and sublicensing of motion data in anonymized form.</p>	<p><b>Undisputed</b> that section 3.4 of Rokoko’s 2025 Terms provides that a user agrees that Rokoko may “sub-license [User Content] to third parties in an anonymized form never to be redistributed in its original form strictly for the purpose of developing and improving their services or products.”</p>

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<b>PLAINTIFF’S UNDISPUTED MATERIAL FACT (“UMF”) AND SUPPORTING EVIDENCE</b>	<b>DEFENDANT’S RESPONSE</b>
	<i>Defendant’s Response:</i> Overby Decl., ¶16, Ex. C at 22-26; FRE 602, 901, 1002; Fed. R. Civ. P. 56(c)(4)
<b>UMF 8:</b> In 2025, Rokoko enacted a new set of terms and conditions.	<i>Plaintiff’s Evidence:</i> Walsh Decl., Ex. 8  <b>Undisputed</b> for purposes of this motion that Rokoko updated its Terms & Conditions in 2025.  <i>Defendant’s Response:</i> FRE 602, 901, 1002, Fed. R. Civ. P. 56(c)(4).
<b>UMF 9:</b> Defendant published statements referencing the data and motion dataset to their website.	<i>Plaintiff’s Evidence:</i> Walsh Decl., Ex. 9  <b>Undisputed</b> as to the content that appears on Rokoko.com. However, Plaintiff has not submitted sufficient admissible evidence to support this fact.  <i>Defendant’s Response:</i> FRE 602, 801, 802, 901; Fed. R. Civ. P. 56(c)(4)
<b>UMF 10:</b> Defendant states that the 2025 Terms “ <i>never applied to Plaintiff</i> ”	<i>Plaintiff’s Evidence:</i> Walsh Decl., Ex. 10  <b>Disputed.</b> In his First Amended Complaint, Plaintiff alleges that he ceased using Rokoko Studio in September 2024. Rokoko has since discovered that Plaintiff has logged into and used his Rokoko Studio account multiple times since September 2024, including after March 2025 when Rokoko’s Terms were updated. Plaintiff could not use the Rokoko Studio system without agreeing to those terms.  <i>Defendant’s Response:</i> Overby Decl., ¶ 12, Ex. A at 7-13.
<b>UMF 11:</b> Data returned from	<i>Plaintiff’s Evidence:</i> Walsh Decl., Ex. 11

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<b>PLAINTIFF’S UNDISPUTED MATERIAL FACT (“UMF”) AND SUPPORTING EVIDENCE</b>	<b>DEFENDANT’S RESPONSE</b>
<p>Defendant’s software (listMyTeamsWithLicenses endpoint) includes a record labeled "Matthew Tea" with a created_at timestamp of the year 2020.</p>	<p><b>Disputed.</b> Plaintiff appears to rely on UMF 11 and Ex. 11 to argue that he only agreed to Rokoko’s 2020 Terms. Plaintiff has also agreed to Rokoko’s updated Terms through his continued use of Rokoko Studio, including in 2022 and 2025.</p> <p><i>Defendant’s Response:</i> Overby Decl., ¶ 12, Ex. A at 17-23; FRE 602, 901, 901(b)(9), Cal. Pen. Code §§ 629.51(2) 632, 632(d); Fed. R. Civ. P. 56(c)(4).</p>
<p><b>UMF 12:</b> Plaintiff’s Copyright “<i>Effective Date of Registration</i>” is July 6, 2025</p>	<p><b>Undisputed</b> that Plaintiff’s copyright registration for The Next World states that Plaintiff completed the work in 2017, with an “effective date of registration” of July 6, 2025 and a “registration decision date” of November 25, 2025.</p>
<p><b>UMF 13:</b> Timestamps reflecting the animation works at issue have timestamps predating December 24, 2025.</p>	<p><i>Plaintiff’s Evidence:</i> Walsh Decl., Ex. 13</p> <p><b>Disputed.</b> Ex. 13 appears to show various files for Plaintiff’s game called The Nothing and do not relate to animation files for The Next World, his separate video game. Moreover, the “timestamps” to which Plaintiff refers in Ex. 13 appear to be some but not all of the files that Plaintiff claims to have created through Rokoko Studio. Plaintiff repeatedly used Rokoko Studio after December 24, 2025.</p> <p><i>Defendant’s Response:</i> Overby Decl., ¶ 12, Ex. A at 17-23; FRE 602, 901; Fed.</p>

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PLAINTIFF’S UNDISPUTED MATERIAL FACT (“UMF”) AND SUPPORTING EVIDENCE	DEFENDANT’S RESPONSE
<p><b>UMF 14:</b> Plaintiff’s animation folder shows 853 files.</p>	<p>R. Civ. P. 56(c)(4)</p> <p><i>Plaintiff’s Evidence:</i> Walsh Decl., Ex. 14</p> <p><b>Disputed</b> as to the sufficiency of evidence presented by Plaintiff. Plaintiff’s Exhibit 14 appears to a screenshot taken from Plaintiff’s computer that has not been authenticated.</p> <p><i>Defendant’s Response:</i> FRE 602, 901, Fed. R. Civ. P. 56(c)(4)</p>

**DEFENDANT’S RESPONSE TO PLAINTIFF’S SEPARATE STATEMENT OF UNDISPUTED MATERIAL FACTS**

Pursuant to L.R. 56-2 and this Court’s Standing Scheduling and Case Management Order (last updated August, 2025), Rokoko sets forth their Additional Material Facts in support of its Opposition to Plaintiff’s Motion for Partial Summary Judgment (ECF No. 167-3).

DEFENDANT’S ADDITIONAL MATERIAL FACTS (“AMF”)	EVIDENCE ISO AMF
<p><b>AMF 15:</b> In or about August 2020, Walsh placed an order for motion capture hardware products—including a Rokoko Smartsuit Pro suit and Smartgloves—from Rokoko, a Danish motion capture hardware and software company.</p>	<p>ECF 172.</p>
<p><b>AMF 16:</b> From September 2020 onwards, Walsh used Rokoko’s</p>	<p>Declaration of Mikkel Overby (“Overby Decl.”), ¶¶ 9-12.</p>

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DEFENDANT’S ADDITIONAL MATERIAL FACTS (“AMF”)	EVIDENCE ISO AMF
hardware and its accompanying software application, Rokoko Studio Legacy (and later, Rokoko Studio), to create motion-capture animation files for his video game project, The Next World.	ECF 172.
<b>AMF 17:</b> Rokoko Studio is an online, cloud-based platform that stores and syncs the motion capture data created by a user who registers an account with Rokoko.	Overby Decl., ¶ 6.
<b>AMF 18:</b> To create an animation file using Rokoko’s products, the user wears the motion capture hardware (i.e. the Smartsuit Pro or Smartgloves) which captures and records the wearer’s movements.	Overby Decl., ¶ 6.
<b>AMF 19:</b> Those movements are then translated into data that is transmitted to the Rokoko Studio software platform where the user can edit the resulting animation file.	Overby Decl., ¶ 6.
<b>AMF 20:</b> Once added to the user’s Rokoko Studio account, the motion capture file is automatically uploaded to the cloud.	Overby Decl., ¶ 7.
<b>AMF 21:</b> As a user makes edits to an animation file in Rokoko Studio, those edits are automatically uploaded (or “synced”) to the cloud.	Overby Decl., ¶ 7.
<b>AMF 22:</b> Within the Rokoko Studio platform, users can see a “cloud icon”	Overby Decl., ¶ 7.

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DEFENDANT’S ADDITIONAL MATERIAL FACTS (“AMF”)	EVIDENCE ISO AMF
which indicates that their data is being synced to the cloud, and can be clicked to show a list of all content that is being synced.	
<b>AMF 23:</b> The cloud-storage and cloud-syncing feature of Rokoko Studio is a major selling point for the product.	Overby Decl., ¶ 7.
<b>AMF 24:</b> If a user would prefer that their animations not be synced to the cloud, Rokoko’s Enterprise plan allows users to opt out.	Overby Decl., ¶ 7.
<b>AMF 25:</b> Rokoko does not store user data itself and instead contracts with Amazon Web Services to provide cloud storage and store all synced data.	Overby Decl., ¶ 8.
<b>AMF 26:</b> Before a consumer uses Rokoko Studio for the first time or continues to use it after each update to the Terms and Conditions, a window pops up on the user’s computer screen containing the most recent Terms which must be accepted in order to access Rokoko Studio.	Overby Decl., ¶ 14
<b>AMF 27:</b> In 2022, Rokoko transitioned to Rokoko Studio, a cloud-based software that allows registered Rokoko users to access their accounts from multiple devices.	Overby Decl., ¶ 8.
<b>AMF 28:</b> By installing Rokoko Studio, and its various updates, Plaintiff agreed to Rokoko’s terms and conditions, including any revised terms and	Overby Decl., ¶ 14.

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	<b>DEFENDANT’S ADDITIONAL MATERIAL FACTS (“AMF”)</b>	<b>EVIDENCE ISO AMF</b>
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3	conditions.	
4	<b>AMF 29:</b> Plaintiff would not be able to	Overby Decl., ¶ 14.
5	install Rokoko Studio or any of its	
6	software updates without first clicking on a button acknowledging that he agrees to Rokoko’s terms and conditions.	
7	<b>AMF 30:</b> Since the most recent version	Overby Decl., ¶ 12.
8	of Rokoko’s terms and conditions went	
9	into effect on March 22, 2025, Plaintiff has logged into and used Rokoko Studio multiple times, and most recently on December 27, 2025.	
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12	<b>AMF 31:</b> Rokoko has never sublicensed	Overby Decl., ¶ 20.
13	Plaintiff’s data.	
14	<b>AMF 32:</b> Plaintiff’s data is not part of	Overby Decl., ¶ 20.
15	any of Rokoko’s generative AI or motion capture products.	
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17	<b>AMF 33:</b> Under the “Rokoko Studio	Overby Decl., ¶ 15, Ex. B at 16-17.
18	End User License Agreement,” effective	
19	April 8, 2020 (“2020 EULA”), Plaintiff	
20	“agree[d] that [Rokoko] may collect and	
21	use technical data, usage data and related	
22	information—including but not limited	
23	to technical information about your	
24	device, system and application software,	
25	and peripherals—that is gathered	
26	periodically to facilitate the provision of	
27	software updates, product support, and	
28	other services to you (if any) related to the Rokoko Studio software and Rokoko Studio Add-On.”	
	<b>AMF 34:</b> Under the “Rokoko Studio –	Overby Decl., ¶ 16, Ex. C at 23.
	Standard Terms of Use,” effective	

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	<b>DEFENDANT’S ADDITIONAL MATERIAL FACTS (“AMF”)</b>	<b>EVIDENCE ISO AMF</b>
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3	November 1, 2022 (“2022 ToU”),	
4	Plaintiff agreed that Rokoko “may collect and use (i) User Content. . . .”	
5	<b>AMF 35:</b> The 2022 ToU defines “User Content” as “all information and content that you create/generate using, submit to use, or use with or store within the Site and/or Services (including animations, 3D models, images, audio, and related content, as well as user comments). . . .”	Overby Decl., ¶ 16, Ex. C at 23.
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11	<b>AMF 36:</b> The 2022 ToU expressly defines the “Services” that Rokoko is providing as “the Rokoko Studio platform located at <a href="https://www.rokoko.com/studio">https://www.rokoko.com/studio</a> (Site), which allows users to create, store, and share 3D assets (collectively, with all other services accessible through the Site. . . .)”	Overby Decl., ¶ 16, Ex. C at 22.
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17	<b>AMF 37:</b> In February 2025, Rokoko sent an email to users announcing that “30 days from now, on March 22, 2025, we will make a change in our Terms of Use,” describing the most significant update as allowing Rokoko to “leverage this data to enhance our products and services,” including “the possibility of sublicensing completely anonymized data to third parties, while ensuring that the data can never be redistributed in its original form.”	Overby Decl., ¶ 17, Ex. D at 28.
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26	<b>AMF 38:</b> By downloading and using Rokoko Studio after March 22, 2025, which Plaintiff did, Plaintiff agreed to the “Rokoko Studio and Vision –	Overby Decl., ¶ 18, Ex. E at 31.
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	<b>DEFENDANT’S ADDITIONAL MATERIAL FACTS (“AMF”)</b>	<b>EVIDENCE ISO AMF</b>
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3	Standard Terms of Use,” effective March	
4	22, 2025 (“2025 ToU”).	
5	<b>AMF 39:</b> The 2025 ToU provide that	Overby Decl., ¶ 18, Ex. E at 36.
6	users “hereby grant us [Rokoko] a	
7	perpetual, worldwide, non-exclusive,	
8	royalty-free, sublicensable right to	
9	access, use, copy, and modify any	
10	intellectual property rights that arise in	
11	connection with the User Content, Usage	
12	Data and any other Data related to you,”	
13	with the condition that “All User Content	
14	is to be fully anonymized and never	
15	distributed in its original form from any	
16	subcontractor or third-party licensor.”	
17	<b>AMF 40:</b> The 2025 ToU also include a	Overby Decl., ¶ 18, Ex. E at 33.
18	Section 3.4 provision stating that the	
19	user agrees Rokoko may collect and use	
20	User Content, Usage Data, technical	
21	data, and related information for service	
22	provision, service improvement,	
23	improvement of other company	
24	products, and sublicensing “to third	
25	parties in an anonymized form never to	
26	be redistributed in its original form	
27	strictly for the purpose of developing and	
28	improving their services or products.”	
	<b>AMF 41:</b> Plaintiff holds a single	Plaintiff’s Undisputed Material Facts
	copyright registration—Registration No.	(“UMF”), ¶ 12, Ex. 12.
	PAu 4-279-489—for a work titled “The	
	Next World.”	
	<b>AMF 42:</b> The registration identifies the	UMF, ¶ 12, Ex. 12.
	work as an “Audiovisual Work”	
	authored solely by Plaintiff, with a listed	
	year of completion of 2017.	

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DEFENDANT’S ADDITIONAL MATERIAL FACTS (“AMF”)	EVIDENCE ISO AMF
<b>AMF 43:</b> The effective date of registration is July 6, 2025.	UMF, ¶ 12, Ex. 12.
<b>AMF 44:</b> The registration decision date was November 25, 2025.	UMF, ¶ 12, Ex. 12.
<b>AMF 45:</b> Plaintiff did not begin using Rokoko’s motion capture technology until 2020.	Overby Decl., ¶ 9.
<b>AMF 46:</b> Plaintiff claims copyright protection under Registration No. PAu 4-279-489 (completed in 2017) over approximately 850 animation files he created using Rokoko’s software between 2020 and 2024, contending that Rokoko “took at least 852 of Plaintiff’s animations over a period of about four years.”	Mot., 19:342-43.
<b>AMF 47:</b> Plaintiff has not produced the deposit copies of the copyrighted work.	Declaration of Katherine J. Ellena (“Ellena Decl.”), ¶ 12
<b>AMF 48:</b> Plaintiff has not produced any documents establishing that the animation files created with Rokoko’s motion capture technology are encompassed by the 2017 “Audiovisual Work” registration.	Ellena Decl., ¶ 13
<b>AMF 49:</b> Plaintiff filed his original Complaint in the Superior Court of California, County of Los Angeles, on May 12, 2025, asserting claims for, among other things, tortious interference, fraud, intellectual property theft, and breach of warranty.	ECF No. 1-1.

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	<b>DEFENDANT’S ADDITIONAL MATERIAL FACTS (“AMF”)</b>	<b>EVIDENCE ISO AMF</b>
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3	<b>AMF 50:</b> Rokoko propounded its First Set of Requests for Production and Interrogatories (“Rokoko’s First Set of Discovery”) to Walsh on November 3, 2025.	Ellena Decl., ¶ 3, Exs. A-B.
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7	<b>AMF 51:</b> Plaintiff served his responses and objection to Rokoko’s First Set of Discovery on March 6, 2026.	Ellena Decl., ¶ 4, Exs. C-D.
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10	<b>AMF 52:</b> The parties met and conferred regarding Plaintiff’s responses on March 18 and April 1.	Ellena Decl., ¶ 5.
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12	<b>AMF 53:</b> On April 7, 2026, Rokoko sent Plaintiff their final version of an IDC form regarding Plaintiff’s First Set of Discovery requests and asked for Plaintiff’s input.	Ellena Decl., ¶ 6.
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16	<b>AMF 54:</b> At the time of filing this Opposition, an informal discovery conference (“IDC”) remains outstanding on both parties’ responses to written discovery requests and responses where the Parties have reached an impasse.	Ellena Decl., ¶ 7
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21	<b>AMF 55:</b> On April 7, 2026, Rokoko propounded its First Set of Requests for Admission and its Second Set of Requests for Production on Plaintiff.	Ellena Decl., ¶ 8, Exs. E-F.
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24	<b>AMF 56:</b> Rokoko also propounded its Third Set of Requests for Production on April 22, 2026, directed at Plaintiff’s expert report submitted in support of this Motion, and his “intellectual property infringement” cause of action.	Ellena Decl., ¶ 9, Ex. G.
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DEFENDANT’S ADDITIONAL MATERIAL FACTS (“AMF”)	EVIDENCE ISO AMF
<p><b>AMF 57:</b> Plaintiff has not yet responded to any of the discovery Rokoko served on April 7 or April 22, and his responses are not due until May 11, 2026 and May 26, 2026 respectively.</p>	<p>Ellena Decl., ¶ 10.</p>
<p><b>AMF 58:</b> As of the date of this filing, more than three months remain before the close of fact discovery, and nearly four months remain before the close of expert discovery.</p>	<p>Ellena Decl., ¶ 11.</p>

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DATED: April 27, 2026

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