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5 Plaintiff In Pro Per,

6 **UNITED STATES DISTRICT COURT**
7 **CENTRAL DISTRICT OF CALIFORNIA**
8

MATTHEW R. WALSH

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

Plaintiff In Pro Per,

*[Assigned to Hon. Otis D. Wright, II,
Courtroom 5D]*

vs.

ROKOKO ELECTRONICS
(AND DOES 1 THROUGH 50,
INCLUSIVE)

**PLAINTIFF MATTHEW R.
WALSH’S REPLY TO
DEFENDANT’S SSUF’S AND
AMF’S**

Defendant

*Hearing Date: May 18, 2026
Time: 1:30 PM*

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

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10 **Introductory Statement Regarding Responses to Defendant’s AMFs**

11 Plaintiff respectfully acknowledges that certain responses to Defendant’s
12 Additional Material Facts may appear repetitive or formulaic. This is a direct
13 consequence of Defendant’s own submissions. Defendant’s AMFs are wholly
14 immaterial; and reference documents which the Plaintiff contends should be
15 stricken or disregarded as they violate FRE and FRCP. Further, they rely heavily

16 on boilerplate objections, conclusory assertions, and immaterial statements that do
 17 not create a genuine dispute of material fact. As such, Plaintiff’s responses
 18 necessarily follow a consistent structure to address those deficiencies.

19 Plaintiff further notes that the Court previously directed the parties to avoid
 20 boilerplate submissions. Despite that instruction, Defendant’s AMFs and
 21 accompanying objections largely repeat the same unsupported assertions without
 22 evidentiary support. Plaintiff’s responses are therefore framed to directly confront
 23 that pattern and to clarify that, even if accepted as true, Defendant’s assertions fail
 24 to establish any triable issue or operative defense.

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Plaintiff’s Undisputed Material Facts (“UMF”)	Plaintiff’s Response
<p><u>UMF 1</u> Plaintiff agreed to the 2020 Terms & Conditions</p>	<p>Undisputed. Defendant admits this fact “for purposes of this motion.” Any evidentiary objection under FRE 602 does not controvert the fact and is improper in response to a statement of undisputed material fact.</p> <p>No genuine dispute.</p>
<p><u>UMF 2</u> Rokoko released a pitch deck in 2022.</p>	<p>Undisputed. Defendant does not deny that it released a pitch deck in 2022 and offers no contrary evidence. Defendant’s objections go solely to the form and alleged sufficiency of Plaintiff’s exhibit – this is attorney argument, not evidence -- which does not create a genuine dispute of</p>

Plaintiff's Undisputed Material Facts ("UMF")	Plaintiff's Response
	<p>material fact under Rule 56.</p> <p>No genuine dispute.</p>
<p><u>UMF 3</u> Plaintiff never paid for the 'Teams' service. "Skip_Asset_Sync" is set to False</p>	<p>Undisputed. Defendant does not contend that Plaintiff never paid for or maintained a 'Teams' subscription, nor does it identify any contrary billing or account records.</p> <p>Defendant's objections are limited to the form and alleged admissibility of Plaintiff's evidence and do not create a genuine dispute of material fact under Rule 56.</p> <p>Defendant likewise offers no competing evidence regarding the system state or behavior reflected in Plaintiff's exhibits, and instead raises only foundational objections, which are insufficient to create a triable issue of fact.</p> <p>No genuine dispute.</p>
<p><u>UMF 4</u> Defendant produced hundreds of Plaintiff's animation files in response to Requests for Production.</p>	<p>Undisputed. Defendant admits that it produced Plaintiff's animation files in response to Requests for Production. Defendant's assertion that the fact is "immaterial" is a legal argument, not a dispute of fact, and does not defeat summary judgment.</p> <p>The fact that Defendant possessed and produced Plaintiff's animation files is directly material to Plaintiff's claims.</p> <p>No genuine dispute.</p>

Plaintiff's Undisputed Material Facts ("UMF")	Plaintiff's Response
<p><u>UMF 5</u> The Defendant enacted a new agreement in 2022.</p>	<p>Undisputed. Defendant admits that it updated its Terms & Conditions in 2022 and cites its own declaration in support. Defendant's objections to the form of Plaintiff's exhibit do not create a genuine dispute of material fact. The fact is independently established by Defendant's own evidence.</p> <p>No genuine dispute.</p>
<p><u>UMF 6</u> Rokoko's 2022 Terms & Conditions state: "we do not claim ownership over any User Content."</p>	<p>Undisputed. Defendant admits that its 2022 Terms & Conditions contain the cited language and cites its own declaration in support. Defendant's objections to the form of Plaintiff's exhibit do not create a genuine dispute of material fact. The contractual language is established by Defendant's own evidence.</p> <p>No genuine dispute.</p>
<p><u>UMF 7</u> 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>Undisputed. Defendant does not deny that it notified users of the 2025 Terms update and instead raises only evidentiary objections, which do not create a genuine dispute of material fact.</p> <p>No genuine dispute.</p>
<p><u>UMF 8</u> In 2025, Rokoko enacted a new set of terms and conditions.</p>	<p>Undisputed. Defendant admits that it updated its Terms & Conditions in 2025. Defendant's evidentiary objections do not create a genuine dispute of material fact.</p> <p>No genuine dispute.</p>

Plaintiff’s Undisputed Material Facts (“UMF”)	Plaintiff’s Response
<p><u>UMF 9</u> Defendant published statements referencing the data and motion dataset to their website.</p>	<p>Undisputed. Defendant admits that the cited statements appear on its website. Defendant’s evidentiary objections do not create a genuine dispute of material fact.</p> <p>No genuine dispute.</p>
<p><u>UMF 10</u> Defendant states that the 2025 Terms “never applied to Plaintiff”</p>	<p>Undisputed that Defendant made the referenced statement. Defendant does not deny that it stated the 2025 Terms “never applied to Plaintiff,” and instead offers argument regarding subsequent use and alleged acceptance of terms, which does not controvert the fact that the statement was made.</p> <p>Defendant is estopped - Defendant previously represented to this Court that Plaintiff ceased using Rokoko Studio months before the 2025 Terms update. The Court relied on that representation in ruling on Defendant’s Motion to Dismiss. Defendant now asserts the opposite—that Plaintiff continued using the system after March 2025—in order to argue acceptance of the 2025 Terms. Defendant should not be permitted to reverse its position after securing a favorable ruling from the Court.</p> <p>No genuine dispute.</p>
<p><u>UMF 11</u> Data returned from Defendant’s software (listMyTeamsWithLicenses endpoint) includes a record labeled “Matthew</p>	<p>Defendant does not dispute that its software returned a record labeled “Matthew Team” with a 2020 timestamp, and instead offers only</p>

Plaintiff’s Undisputed Material Facts (“UMF”)	Plaintiff’s Response
<p>Team” with a created_ at timestamp of the year 2020.</p>	<p>argument regarding Plaintiff’s alleged acceptance of later terms. Defendant provides no competing system data or logs contradicting Plaintiff’s evidence.</p> <p>At the same time, Defendant now relies on a statement while they simultaneously refused to produce any telemetry, usage logs, or technical data reflecting Plaintiff’s system usage in response to Request for Production No. 9, asserting only boilerplate objections and claiming “<i>already in the possession, custody, or control of Plaintiff</i>”.</p> <p>Under Rule 37(c)(1), Defendant cannot rely on alleged system usage to support its defenses where it failed to disclose the underlying data in discovery.</p> <p>No genuine dispute.</p>
<p><u>UMF 12</u> Plaintiff’s Copyright “<i>Effective Date of Registration</i>” is July 6, 2025</p>	<p>Undisputed. Defendant admits that Plaintiff’s copyright registration has an effective date of July 6, 2025. Defendant’s additional references to other fields on the certificate do not controvert the fact stated and are not material to this motion. The “year of completion” field does not alter the effective date of registration or the existence of a valid registration. Finally in AMF 16 below, Rokoko</p>

Plaintiff's Undisputed Material Facts ("UMF")	Plaintiff's Response
	<p>admits the animations are part of this very game <i>The Next World</i>.</p> <p>No genuine dispute.</p>
<p><u>UMF 13</u> Timestamps reflecting the animation works at issue have timestamps predating December 24, 2025.</p>	<p>Undisputed that timestamps reflecting the animation works at issue predate December 24, 2025. Defendant does not dispute the existence of such timestamps and instead speculates that Exhibit 13 relates to a different project. "The Nothing" is a plot device, playable level, invocable game mechanic and narrative component within Plaintiff's video game <i>The Next World</i>, and Defendant offers no evidence to the contrary.</p> <p>Finally in AMF 16 below, Rokoko admits the animations are part of this very game <i>The Next World</i>.</p> <p>No genuine dispute.</p>
<p><u>UMF 14</u> Plaintiff's animation folder shows 853 files.</p>	<p>Undisputed. Defendant does not dispute that Plaintiff's animation folder reflects 853 files and instead raises only evidentiary objections, which do not create a genuine dispute of material fact.</p> <p>Finally in AMF 16 below, Rokoko admits the animations are part of this very game <i>The Next World</i>.</p> <p>No genuine dispute.</p>

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PLAINTIFF’S RESPONSE TO DEFENDANT’S SEPARATE STATEMENT OF ADDITIONAL MATERIAL FACTS

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
<p>AMF 15: 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>Undisputed.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 16: From September 2020 onwards, Walsh used Rokoko’s 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.</p>	<p>Disputed. Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Defendant provides no evidence that Plaintiff used any version other than Rokoko Studio Legacy. Defendant refused to produce telemetry or usage data in response to RFP No. 9 and cannot rely on unsupported assertions of continued use.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
<p>AMF 17: 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.</p>	<p>Disputed. Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Rokoko Studio is downloadable desktop software written in C# with local file storage – not ‘cloud based’. Further, it is not exclusively an online, cloud-based platform that stores and syncs all user motion-capture data.</p> <p>Plaintiff’s evidence, including the software code, expert report, Defendant’s website, and Rokoko’s paid fully-offline functionality, shows that Rokoko Studio can operate offline and does not necessarily store or sync all user-created motion-capture data.</p> <p>Even if automatic syncing occurred, Defendant identifies no agreement authorizing retention or use of Plaintiff’s copyrighted works.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 18: To create an animation file using Rokoko’s products, the user wears the motion capture hardware (i.e. the Smartsuit Pro or Smartgloves) which</p>	<p>Undisputed.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
captures and records the wearer’s movements.	is no license in any operative agreement pertaining to Plaintiff.
<p>AMF 19: 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</p>	<p>Disputed. Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>As Plaintiff’s video (Ex. 3) and expert report demonstrate: Movements are first recorded and saved locally to Plaintiff’s hard drive , and do not require transmission to any cloud platform for creation or editing. Plaintiff’s evidence demonstrates that animation files are created and can be edited locally without internet connectivity, and any subsequent transfer occurs after local storage. Defendant’s characterization of Rokoko Studio as the platform where files are created and edited is inaccurate.</p> <p>Even if automatic syncing occurred, Defendant identifies no agreement authorizing retention or use of Plaintiff’s copyrighted works.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
AMF 20: Once added to the user’s Rokoko Studio account, the motion	Disputed. Defendant relies solely on conclusory statements in the Overby Declaration without supporting

Defendants' Additional Material Facts ("UMF")	Plaintiff's Response
<p>capture file is automatically uploaded to the cloud.</p>	<p>evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>The statement is vague and ambiguous as to "once added"... Nothing is "added" to an account. Rokoko Studio is a recording software. The user presses record when ready, stop when done. There are no additional steps. The 'Rokoko Studio account' is not an upload platform or a part of Rokoko Studio; it is an outside website users visit to change their contact and billing information.</p> <p>The statement is vague and ambiguous as to [what] is "added" to a user's account. Defendant provides no evidence of any procedures or processes which would result in automatic upload to the cloud, and Plaintiff's evidence shows files can be created and stored locally without any such automatic upload.</p> <p>Even if automatic syncing occurred, Defendant identifies no agreement authorizing retention or use of Plaintiff's copyrighted works.</p> <p>Immaterial: This 'fact', even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
<p>AMF 21: As a user makes edits to an animation file in Rokoko Studio, those edits are automatically uploaded (or “synced”) to the cloud.</p>	<p>Disputed.</p> <p>Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>The statement is vague and inaccurate. Editing occurs locally within the software and is not dependent on or simultaneous with any cloud upload. Defendant provides no evidence that edits are continuously or automatically uploaded during the editing process.</p> <p>Even if automatic syncing occurred, Defendant identifies no agreement authorizing retention or use of Plaintiff’s copyrighted works.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 22: Within the Rokoko Studio platform, users can see a “cloud icon” 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</p>	<p>Disputed.</p> <p>Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Even if automatic syncing occurred, Defendant identifies no agreement</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
	<p>authorizing retention or use of Plaintiff’s copyrighted works.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 23: The cloud-storage and cloudsyncing feature of Rokoko Studio is a major selling point for the product.</p>	<p>Disputed. Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Defendant provides no evidence that cloud storage or syncing is a “major selling point” of the product. The assertion is conclusory and not a material fact, and is contradicted by Defendant’s own materials and Plaintiff’s evidence showing customer complaints of it’s mere existence and actual functionality: harvesting animation data.</p> <p>Even if automatic syncing occurred, Defendant identifies no agreement authorizing retention or use of Plaintiff’s copyrighted works.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 24: If a user would prefer that their animations not be synced to the cloud,</p>	<p>Disputed. Defendant provides no evidence that such an option existed</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
<p>Rokoko’s Enterprise plan allows users to opt out.</p>	<p>during the relevant time period of Plaintiff’s use. Any purported Enterprise plan or opt-out feature post-dates Plaintiff’s use and is immaterial.</p> <p>Admission against interest: Rokoko here admits the software does not require online cloud sync to operate, they now (post-Plaintiff’s use) just charge to turn it off.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 25: Rokoko does not store user data itself and instead contracts with Amazon Web Services to provide cloud storage and store all synced data.</p>	<p>Disputed. Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Defendant’s use of Amazon Web Services does not alter its possession, custody, or control over user data stored on its behalf. Further, Defendant has conveniently ignored the servers downtown in the One Wilshire/DTLA data-centers (Hivelocity) they operate and store data on.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
<p>AMF 26: 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.</p>	<p>Disputed. Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Defendant provides no evidence that any such acceptance mechanism existed during the relevant time period or was presented to Plaintiff.</p> <p>Immaterial: This ‘fact’ does not create a license where there is no license in any operative agreement pertaining to Plaintiff</p>
<p>AMF 27: In 2022, Rokoko transitioned to Rokoko Studio, a cloud-based software that allows registered Rokoko users to access their accounts from multiple devices.</p>	<p>Disputed. Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>First, Rokoko Legacy (2020, 2021) is still downloadable and usable as the only software which can be used with Rokoko Smartsuit Pro I (like Plaintiff’s).</p> <p>Second, Both Rokoko Studio and Legacy are desktop-based downloadable applications written in c# that saves [local] animation files. Neither program is ‘cloud based’.</p>

Defendants' Additional Material Facts ("UMF")	Plaintiff's Response
	<p>Third, Both are wholly capable of offline operation (as Rokoko admits in AMF #24)</p> <p>Lastly, Defendant provides no evidence that Plaintiff used any cloud-based version or functionality while Plaintiff's evidence shows he did not at any time.</p> <p>Immaterial: This 'fact', even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 28: By installing Rokoko Studio, and its various updates, Plaintiff agreed to Rokoko's terms and conditions, including any revised terms and conditions.</p>	<p>Disputed.</p> <p>Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Defendant provides no evidence that Plaintiff installed any updates or agreed to revised terms and refused to produce any such records in response to RFP No. 9. Conversely, Plaintiff's evidence and Rokoko's own emails admit he was still using the 2020 software in 2024 and so no assent could have occurred to later terms.</p> <p>Immaterial: This 'fact', even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
<p>AMF 29: Plaintiff would not be able to install Rokoko Studio or any of its software updates without first clicking on a button acknowledging that he agrees to Rokoko’s terms and conditions.</p>	<p>Disputed.</p> <p>Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Defendant provides no evidence that Plaintiff was required to accept terms to install or access the software. Nor have they provided any evidence that Plaintiff ever updated or even seen later terms.</p> <p>Further, Rokoko distributes its software via Inno Setup executables, which can be extracted (e.g., via right-click extraction) without installation, ensuring Plaintiff would never see any installer-based prompts and not requiring any acceptance of terms as part of their own installers inherent functionality (presumably simplified to avoid spyware/adware installation).</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 30: Since the most recent version of Rokoko’s terms and conditions went into effect on March 22, 2025, Plaintiff has logged into and used Rokoko Studio multiple times, and most recently on December 27, 2025.</p>	<p>Disputed.</p> <p>Defendant relies on information they refused to produce in discovery and now attempts to introduce through the Overby Declaration, which is</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
	<p>insufficient to create a genuine dispute of material fact.</p> <p>Defendant did not produce any telemetry or usage data in response to RFP No. 9 and cannot rely on such undisclosed information under Federal Rule of Civil Procedure 37(c)(1).</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 31: Rokoko has never sublicensed Plaintiff’s data.</p>	<p>Disputed. Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact. Plaintiff’s evidence, including their own statements and executed agreements, contradicts this assertion.</p> <p>Immaterial: Rokoko admits to copying. Infringement occurs during copying, not only use / resale / sublicense.</p>
<p>AMF 32: Plaintiff’s data is not part of any of Rokoko’s generative AI or motion capture products.</p>	<p>Disputed. Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Defendant provides no evidence to substantiate this assertion while</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
	<p>Plaintiff’s evidence and Rokoko’s own admissions specifically demonstrates otherwise.</p> <p>Immaterial: Rokoko admits to copying. Infringement occurs during copying, not only use / resale / sublicense.</p>
<p>AMF 33: Under the “Rokoko Studio End User License Agreement,” effective April 8, 2020 (“2020 EULA”), Plaintiff “agree[d] that [Rokoko] may collect and use technical data, usage data and related information—including but not limited to technical information about your device, system and application software, and peripherals—that is gathered periodically to facilitate the provision of software updates, product support, and other services to you (if any) related to the Rokoko Studio software and Rokoko Studio Add-On.”</p>	<p>Disputed.</p> <p>Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p> <p>The 2020 EULA permits collection of limited technical and usage information related to ordering, registration, activation, updates, and support, but does not grant any right to copy, collect, retain, or exploit Plaintiff’s animation data.</p> <p>Defendant identifies no agreement in the record authorizing such conduct.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 34: Under the “Rokoko Studio – Standard Terms of Use,” effective</p>	<p>Disputed.</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
<p>November 1, 2022 (“2022 ToU”), Plaintiff agreed that Rokoko “may collect and use (i) User Content. . . .”</p>	<p>Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Defendant provides no evidence that Plaintiff assented to the 2022 Terms and refused to produce any such records in response to RFP No. 9.</p> <p>The quoted language is incomplete and misleading; the full provision limits any collection or use of User Content to improving and providing the Services, and does not grant any right to copy, retain, or exploit Plaintiff’s animation data.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 35: 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). . . .”</p>	<p>Disputed. Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Defendant provides no evidence that Plaintiff assented to the 2022 Terms and refused to produce any such records in response to RFP No. 9 and ROG No. 11.</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
	<p>The quoted language is incomplete and mischaracterizes the Terms, which limit any use of User Content to providing and improving the Services and do not grant any right to copy, retain, or exploit Plaintiff’s animation data.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 36: The 2022 ToU expressly defines the “Services” that Rokoko is providing as “the Rokoko Studio platform located at https://www.rokoko.com/studio (Site), which allows users to create, store, and share 3D assets (collectively, with all other services accessible through the Site. . . .)”</p>	<p>Disputed. Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Defendant provides no evidence that Plaintiff assented to the 2022 Terms and refused to produce any such records in response to RFP No. 9 and ROG No. 11.</p> <p>This definition is immaterial and does not establish any right to collect, retain, or exploit Plaintiff’s animation data.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 37: In February 2025, Rokoko sent an email to users announcing that “30 days from now, on March 22, 2025, we</p>	<p>Undisputed.</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
<p>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.”</p>	<p>However, Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p>
<p>AMF 38: By downloading and using Rokoko Studio after March 22, 2025, which Plaintiff did, Plaintiff agreed to the “Rokoko Studio and Vision – Standard Terms of Use,” effective March 22, 2025 (“2025 ToU”).</p>	<p>Disputed. Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Estoppel: Defendant is estopped from asserting this position, having previously represented that Plaintiff ceased use months before the 2025 Terms took effect and that “the 2025 terms have never applied to Plaintiff”. The Court relied on this statement and granted dismissal on several causes of action.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 39: The 2025 ToU provide that users “hereby grant us [Rokoko] a perpetual, worldwide, non-exclusive, royalty-free, sublicensable right to access, use, copy, and modify any intellectual property rights that arise in</p>	<p>Disputed.</p> <p>Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
<p>connection with the User Content, Usage Data and any other Data related to you,” with the condition that “All User Content is to be fully anonymized and never distributed in its original form from any subcontractor or third-party licensor.”</p>	<p>is insufficient to create a genuine dispute of material fact.</p> <p>Estoppel: Defendant is estopped from asserting reliance on the 2025 Terms, having previously represented to this Court that the 2025 Terms “never applied to Plaintiff.”</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 40: The 2025 ToU also include a Section 3.4 provision stating that the user agrees Rokoko may collect and use User Content, Usage Data, technical data, and related information for service provision, service improvement, improvement of other company products, and sublicensing “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>	<p>Disputed.</p> <p>Defendant relies solely on conclusory statements in the Overby Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Estoppel: Defendant is estopped from asserting reliance on the 2025 Terms, having previously represented that those terms did not apply to Plaintiff.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 41: Plaintiff holds a single copyright registration—Registration No. PAu 4-279-489—for a work titled “The Next World.”</p>	<p>Undisputed.</p>
<p>AMF 42: The registration identifies the work as an “Audiovisual Work”</p>	<p>Undisputed only that the registration contains those fields.</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
<p>authored solely by Plaintiff, with a listed year of completion of 2017.</p>	<p>Disputed to the extent Defendant implies that the listed year of completion limits the scope of the registered work or excludes the animation files at issue.</p> <p>The registration is for <i>The Next World</i>, and Defendant has elsewhere admitted the animations were used in Plaintiff’s videogame project.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 43: The effective date of registration is July 6, 2025.</p>	<p>Undisputed that the registration lists an effective date of July 6, 2025. The Court declined to dismiss the claim over this very issue. The Supreme Court as well has disavowed that this is a threshold issue where amendment cures it.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 44: The registration decision date was November 25, 2025.</p>	<p>Undisputed that the registration lists a decision date of November 25, 2025. The Court declined to dismiss the claim over this very issue. The Supreme Court as well has disavowed that this is a threshold issue where amendment cures it.</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
	<p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 45: Plaintiff did not begin using Rokoko’s motion capture technology until 2020.</p>	<p>Undisputed.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 46: 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.”</p>	<p>Disputed.</p> <p>The reference to “2017” reflects a field on the registration not chosen by the Plaintiff and does not limit the scope of the registered work or exclude the animation files at issue. Defendant’s characterization is a misstatement of Plaintiff’s claims.</p> <p>Rokoko admitted in AMF 16 that the animations created are part of Plaintiff’s video game.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 47: Plaintiff has not produced the deposit copies of the copyrighted work.</p>	<p>Disputed. Defendant relies solely on conclusory statements in the Ellena Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
	<p>Rokoko admitted in AMF 16 that the animations created are part of Plaintiff’s video game.</p> <p>Plaintiff was not requested to produce any deposit copies prior to filing for Summary Judgment in either filed motions.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 48: 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.</p>	<p>Disputed.</p> <p>Defendant relies solely on conclusory statements in the Ellena Declaration without supporting evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Rokoko admitted in AMF 16 that the animations created are part of Plaintiff’s video game.</p> <p>The reference to “2017” reflects a field on the registration, not chosen by the Plaintiff and does not limit the scope of the registered work or exclude the animation files at issue. Plaintiff has produced documents – and the Defendant has admitted herein (AMF 16) -- that the animation files correspond to and are part of the registered work, and Defendant’s characterization is incorrect.</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
	<p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 49: 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.</p>	<p>Disputed.</p> <p>This statement omits prior proceedings, including small claims, ODR, and arbitration, and is therefore incomplete and misleading.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 50: Rokoko propounded its First Set of Requests for Production and Interrogatories (“Rokoko’s First Set of Discovery”) to Walsh on November 3, 2025.</p>	<p>Undisputed.</p> <p>Defendant relies on attorney argument rather than evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 51: Plaintiff served his responses and objection to Rokoko’s First Set of Discovery on March 6, 2026.</p>	<p>Disputed.</p> <p>Defendant relies on attorney argument rather than evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>This statement mischaracterizes the record and omits that Defendant’s</p>

Defendants' Additional Material Facts ("UMF")	Plaintiff's Response
	<p>own conduct created a numbering defect in its discovery requests (see Dkt #109) and refused to correct it until ordered to do so by the Court, delaying Plaintiff's ability to provide responses. Once corrected, Rokoko had full and immediate discovery production (<i>See Plaintiff's USB drive - folder 03</i>)</p> <p>Immaterial: This 'fact', even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 52: The parties met and conferred regarding Plaintiff's responses on March 18 and April 1.</p>	<p>Disputed as to the nature of these meetings and the mischaracterization of the record.</p> <p>Defendant relies on attorney argument rather than evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Immaterial: This 'fact', even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 53: 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.</p>	<p>Disputed.</p> <p>Defendant relies on attorney argument rather than evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>The IDC form was not final; Defendant demanded review and "final sign off" and then failed to</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
	<p>follow through, leaving the process incomplete and Plaintiff to file on his own, at the end of April – to which the Defendants broke Court order by e-mailing chambers directly with objections and demands that the IDC be withdrawn.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 54: 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.</p>	<p>Disputed.</p> <p>Defendant relies on attorney argument rather than evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>Plaintiff is the moving party as the Defendants refused to file the IDC as promised. Plaintiff moved on his own for IDC, Defendants then broke Court order by e-mailing chambers directly with objections and demands that the IDC be withdrawn.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 55: On April 7, 2026, Rokoko propounded its First Set of Requests for Admission and its Second Set of Requests for Production on Plaintiff.</p>	<p>Disputed.</p> <p>Defendant relies on attorney argument rather than evidence, which is insufficient to create a genuine dispute of material fact.</p>

Defendants’ Additional Material Facts (“UMF”)	Plaintiff’s Response
	<p>The RFA’s were served April 8th, not the 7th; and they were defective featuring overlapping numbers, requiring correction on the 9th.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 56: 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.</p>	<p>Disputed.</p> <p>Defendant relies on attorney argument rather than evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>This statement mischaracterizes the scope of Defendant’s requests, which seek irrelevant and confidential materials unrelated to the issues in this motion including those involving high profile celebrities and Plaintiff’s personal tax returns.</p> <p>Immaterial: This ‘fact’, even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 57: 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>Disputed.</p> <p>Defendant relies on attorney argument rather than evidence, which is insufficient to create a genuine dispute of material fact.</p>

Defendants' Additional Material Facts ("UMF")	Plaintiff's Response
	<p>Plaintiff has responded and met and conferred with Defendant regarding these requests. Defendant is aware that Plaintiff is seeking a protective order due to those request. An IDC form has been filed. Defendants improperly contacted chambers directly requesting it to be withdrawn.</p> <p>Immaterial: This 'fact', even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>
<p>AMF 58: 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>Undisputed, but immaterial.</p> <p>Defendant relies on attorney argument rather than evidence, which is insufficient to create a genuine dispute of material fact.</p> <p>The remaining discovery period has no bearing on the narrow issues presented in this motion. Defendant has not identified any expert, has not provided compliant responses to written discovery, and has not produced any substantive evidence to support its defenses.</p> <p>Immaterial: This 'fact', even if true, does not create a license where there is no license in any operative agreement pertaining to Plaintiff.</p>

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34 I declare under penalty of perjury under the laws of the United States of America
35 that the foregoing is true and correct.

36

37 Executed this April 27, 2026, in Santa Clarita, California.

38

A handwritten signature in black ink, appearing to read "Matthew R. Walsh", is written over a horizontal line.

Matthew R. Walsh
Plaintiff In Pro Per

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