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

**MATTHEW R. WALSH**

**Plaintiff,**

**vs.**

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

**Defendant.**

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

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

**[DISCOVERY MOTION]**

**DEFENDANT ROKOKO  
ELECTRONICS' SUPPLEMENTAL  
BRIEFING IN OPPOSITION TO  
PLAINTIFF'S MOTION TO  
COMPEL**

**DATE: July 8, 2026  
TIME: 10:00 a.m.  
Courtroom: 590**

State Court Action Filed: May 12, 2025  
Removal Date: June 12, 2025  
Trial Date: March 9, 2027

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Pursuant to this Court’s May 12, 2026 Order (“Order”) (ECF No. 183), which afforded the parties five (5) pages for additional supplemental briefing on outstanding discovery disputes, Defendant Rokoko Electronics (“Rokoko”) respectfully submits this opposition to Plaintiff Matthew R. Walsh’s (“Plaintiff”) Motion to Compel Discovery Responses (“Motion”) (ECF No.188). Rokoko respectfully requests that the Court (1) strike or disregard all material in the Motion beyond the Court’s ten-page limit; and (2) deny the Motion in its entirety or, in the alternative, grant only narrowly tailored relief to those discovery requests the Court deems fit while denying the requests for deemed admissions, privilege waiver, blanket objection overruling, and monetary sanctions.

**II. ARGUMENT**

**A. Plaintiff’s Motion In Excess Of Page Limits Should Be Struck.**

The Court’s Order expressly authorized each side to file “one motion in joint table format” with “up to 10 pages of briefing for general or overarching arguments that do not fit within the table format.” Plaintiff’s filing far exceeds this limit, containing a total of 22 pages of briefing (ECF No. 188, pp. 1-5, 7-23), and beyond the 266-page Joint Table itself (ECF No. 188-1), his two concurrently filed declarations contain an additional 70-plus pages of legal argument interspersed with exhibits. (ECF Nos. 188-1, pp. 1-3; 188-2; 188-3).

This noncompliance directly prejudices Rokoko, who has complied with the Court’s page limits and confined its own arguments to the format the Court prescribed. (*See* ECF No. 187). Rokoko now has only five pages in this supplemental memorandum to respond to what is effectively a 90-plus-page motion—a fundamentally asymmetric posture that the Court’s Order was designed to prevent. Accordingly, Rokoko respectfully requests that the Court strike any briefing in excess of the ten-page limit.

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**B. Rokoko Has Provided Complete Responses to Plaintiff's Discovery Requests.**

Rokoko has served responses to all of Plaintiff's discovery requests, as well as served supplemental responses to Plaintiff's Requests for Admission Sets One and Two, Requests for Production Sets One and Two, and a *further* supplemental response to Request for Admission Set One in compliance with the Court's May 12, 2026 Order. To date, Rokoko has completed five document productions, bearing Bates numbers ROKOKO\_0000001 through ROKOKO\_0000541, and produced its Chief Operating Officer, Mikkel Overby, for deposition in his individual capacity on May 28, 2026. Rokoko has also met and conferred with Plaintiff numerous times throughout the discovery period, which does not close until August 18, 2026 – more than two months from now.

Plaintiff also asserts that Rokoko has never provided withholding statements under Rule 34(b)(2)(C). That assertion is inaccurate. Rokoko has repeatedly confirmed nothing responsive is being withheld, stating: "following a diligent search and reasonable inquiry, Rokoko has not located any responsive, non-privileged documents within its possession, custody, and control." To the extent the Court identifies any specific response requiring further clarification, Rokoko is prepared to supplement. The appropriate remedy for any deficiency is a targeted order to supplement, not wholesale waiver. *See Perez v. United States*, No. 13cv1417-WQH-BGS, 2016 LX 18395, at \*5 (S.D. Cal. Jan. 25, 2016) ("waiver is not the appropriate remedy" for what a party considers to be boilerplate objections).<sup>1</sup>

**C. Plaintiff's Motion Seeks Discovery On Irrelevant, Collateral Matters.**

A substantial portion of Plaintiff's requests target matters this Court has already found irrelevant or matters that bear no connection to any element of Plaintiff's three causes of action: tortious interference, copyright infringement and RICO.

The Court's Order sustained relevance objections on requests seeking admissions

<sup>1</sup> This Court prior declined to find wholesale waiver on similar relevance and ambiguity objections. (*See* ECF No. 183).

1 regarding metadata time zones of PDF filings, attorney signature practices, and  
2 disclosures to the Danish government about California operations. (ECF No. 183).  
3 Many of Plaintiff’s remaining requests fall into this same category of collateral  
4 attorney-conduct and litigation-process issues—pro hac vice status, word counts of  
5 motions, meet-and-confer conduct, and Rule 11 disputes—none of which relate to any  
6 element of any operative claim.

7 Plaintiff’s most expansive requests invoke RICO as a blanket justification for  
8 discovery into virtually every aspect of Rokoko’s business. Merely pleading RICO does  
9 not entitle a plaintiff to a defendant’s entire corporate structure and financial existence.  
10 Discovery must be relevant to any party’s claim or defense and proportional to the needs  
11 of the case. *See* Fed. R. Civ. P. 26(b)(1). Plaintiff must demonstrate a specific ***factual***  
12 nexus between each request and a specific element of his RICO claim. He has not done  
13 so. The proportionality factors—burden, expense, the parties’ relative resources, and  
14 the importance of the discovery in resolving the issues—all weigh against compelling  
15 production of confidential financial information from non-party entities based on  
16 speculative theories. Merely pleading RICO does not entitle Plaintiff to Rokoko’s entire  
17 corporate and financial existence, particularly where Plaintiff fails to tie it to any alleged  
18 racketeering activity. *See PMC, Inc. v. Ferro Corp.*, 131 F.R.D. 184, 188 (C.D. Cal.  
19 1990) (holding parties pleading RICO are “precluded from taking discovery of such  
20 matters, unless and until it first makes a threshold factual showing linking the  
21 information sought to the alleged racketeering activity.”)

22 Furthermore, Plaintiff’s requests for “all contracts, agreements, or  
23 communications” with third parties spanning five years are vastly overbroad. To the  
24 extent they exist, Plaintiff’s requests seek the production of confidential agreements  
25 subject to non-disclosure provisions that Rokoko cannot unilaterally waive. Plaintiff’s  
26 requests should be denied. *Masimo Corp. v. Apple Inc.*, No. SA CV 20-00048 JVS  
27 (JDEx), 2022 LX 172220, at \*5 (C.D. Cal. Oct. 11, 2022) (“discovery requests may be  
28 denied if they are overbroad on their face.”)

**D. Plaintiff Misstates Governing Discovery Standards.**

Plaintiff’s contention that Rokoko relies on “superseded” objection language is misleading. While the 2015 amendments to Rule 26(b)(1) removed “reasonably calculated to lead to the discovery of admissible evidence” as the governing standard, parties may still object on grounds of relevance and proportionality—precisely what Rokoko has done throughout. The Court’s Order implicitly recognized this standard by sustaining multiple relevance objections where legacy “reasonably calculated” language was accompanied by other substantive objections. (*See* ECF No. 183 [*citing Daniels v. G4S Secure Solutions USA, Inc.*, No. 8:20-cv-00283-JGB (JDEx), 2021 WL 1537040, at \*4 (C.D. Cal. Jan. 21, 2021)]).

**E. Plaintiff’s Privilege-Waiver Argument Is Inapposite.**

Privilege waiver is a drastic remedy imposed only when a party’s conduct is sufficiently egregious. *See Burlington N. & Santa Fe Ry. v. United States Dist. Court*, 408 F.3d 1142, 1149 (9th Cir. 2005) (rejecting a *per se* waiver rule where a privilege log is not produced; the district court “should make a case-by-case-determination,” taking into account factors such as “the timeliness of the objection. . . the magnitude of the document production. . . and other particular circumstances of the litigation”).

Plaintiff conflates the absence of a privilege log with waiver, but a privilege log obligation under Rule 26(b)(5) arises only when a party actually withholds otherwise-responsive documents on the basis of privilege. Where Rokoko has stated “no responsive documents located,” there is nothing to log. For any specific request where the Court determines documents are being withheld on privilege grounds, Rokoko is prepared to provide a privilege log.<sup>2</sup>

**F. Plaintiff Fails To Allege Bad Faith As Required For Sanctions.**

Sanctions under 28 U.S.C. § 1927 require a showing that counsel acted in “subjective bad faith”—that is, that counsel knowingly or recklessly raised frivolous

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<sup>2</sup> Plaintiff’s argument that documents predating May 2025 (when this action was filed) cannot be privileged misses the mark. This Court’s Order already declined to find waiver on these same arguments. Nothing has changed.

arguments or multiplied proceedings unreasonably and vexatiously. *See In re Keegan Mgmt. Co.*, 78 F.3d 431, 436 (9th Cir. 1996); *B.K.B. v. Maui Police Dep't*, 276 F.3d 1091, 1107 (9th Cir. 2002). Plaintiff has not alleged, much less demonstrated, subjective bad faith. Rokoko's discovery positions have been substantially vindicated by this Court's own rulings, which sustained multiple objections. Plaintiff's 330-plus page filing simply repackages requests for drastic and unwarranted sanctions that this Court has repeatedly denied. (*See* ECF No. 183; *see also* ECF No. 145 [denying Plaintiff's Motion for Reconsideration (ECF No. 85), Motion for Sanctions (ECF No. 117), and Motion to Deem Admissions Admitted (ECF No. 130)]).

### III. CONCLUSION

For the foregoing reasons, Rokoko respectfully requests that the Court deny Plaintiff's Motion to Compel in its entirety, strike or disregard briefing that exceeds the page limits established by the Court's May 12, 2026 Order, and deny Plaintiff's request for sanctions.

DATED: June 5, 2026

REED SMITH LLP

By: /s/ Katherine J. Ellena  
Katherine J. Ellena  
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Rokoko Electronics*

**CERTIFICATION OF MEET AND CONFER**

I certify that the parties met and conferred to discuss the issues raised in the Motion and attempted in good faith to resolve the Motion in whole or in part on February 12, 2026, March 4, 2026, March 5, 2026, March 18, 2026, April 1, 2026, and May 19, 2026.

DATED: June 5, 2026

/s/ Katherine J. Ellena  
Katherine J. Ellena

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**CERTIFICATE OF COMPLIANCE**

The undersigned, counsel of record for Defendant Rokoko Electronics, certifies that this brief contains 1,446 words, which complies with the word limit of L.R. 11-6.2.

DATED: June 5, 2026

/s/ Katherine J. Ellena  
Katherine J. Ellena

**CERTIFICATION OF GENERATIVE AI COMPLIANCE**

The undersigned certifies that this submission   X   does not use        uses generative artificial intelligence. If generative artificial intelligence was used, following drafting, I reviewed, revised, and supplemented all portions of the brief, including those that were informed by the use of Artificial Intelligence or based on prior templates. I independently verified the factual and legal accuracy of the content and confirmed that all arguments and authorities were appropriate to the issues presented.

DATED: June 4, 2026

/s/ Katherine J. Ellena  
Katherine J. Ellena

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