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Plaintiff In Pro Per,

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

MATTHEW R. WALSH

Plaintiff In Pro Per,

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]*

**PLAINTIFF'S APPLICATION FOR
LEAVE TO FILE A RENEWED
MOTION FOR SUMMARY
JUDGMENT**

Hearing date: August 31, 2026
Hearing time: 1:30 PM
Before: Hon. Otis D. Wright II
Room: 590

State Court Action Filed: May 12, 2025
Removal Date: June 12, 2025
Trial Date: March 9, 2027
Discovery Cutoff: August 18, 2026
Motion Cutoff: September 28, 2026

**TO THE COURT, THE DEFENDANT AND THEIR COUNSEL OF
RECORD: PLEASE TAKE NOTICE:**

Pursuant to Rule 54(b), L.R. 7-18, and the Court's inherent authority, Plaintiff Matthew R. Walsh respectfully will and does hereby request leave to file a renewed motion for summary judgment. The hearing for this application may be heard on August 31, 2026 at 1:30 or earlier. Additionally, the Court has broad discretion to grant leave sue sponte.

CERTIFICATION OF MEET AND CONFER

Pursuant to Local Rule 7-3, Plaintiff Matthew R. Walsh certifies that he met and conferred with Defendants' counsel regarding this application for leave on July 21, 2026 in person. Additionally, the parties' met and conferred regarding Plaintiff's forthcoming renewed Motion for Summary Judgment. Counsel stated "*if that's your theory, I understand. We will obviously oppose, but go ahead.*"

I. INTRODUCTION

Plaintiff acknowledges and respects this Court's authority to "*weed out frivolous or simply repetitive motions,*" as found in Hoffman v. Tonnemacher, 593

32 F.3d 908, 911 (9th Cir. 2010). However, Plaintiff respectfully submits that the
33 forthcoming renewed motion is neither frivolous nor repetitive, it is a new motion
34 based on an expanded record. *Williamsburg Wax Museum, Inc. v. Historic Figures,*
35 *Inc.*, 810 F.2d 243, 251 (D.C. Cir. 1987) ("*A subsequent motion for summary*
36 *judgment based on an expanded record is **always** permissible.*").

37 The Plaintiff's initial summary judgment motion was not heard on its
38 merits, but rather denied due to a clerical error on his copyright registration,
39 which was fixed months prior. Rather than an OSC to determine the sufficiency
40 while the motion remained pending, it was dismissed outright *without prejudice*. A
41 renewed motion is not a second bite at the apple. Plaintiff contends that due to a
42 common and harmless clerical error, he did not get a first bite; the metaphorical
43 apple remains whole, ripe, and untouched. Respectfully, Plaintiff doesn't perceive
44 this motion as successive or repetitive; but rather an opportunity to have the merits
45 finally reached. But-for a procedural issue, it would have otherwise been heard
46 fully.

47 Additionally and *perhaps* most importantly, there is no Rule in the FRCP,
48 nor the Local Rules, nor the scheduling order, nor the presiding Judge's standing
49 orders which forbid the filing of a second Motion for Summary judgment.
50 Therefore it is entirely at the Court's discretion to disapprove such a filing,
51 whereas no such discretion is required to allow.

52 *("Federal Rule of Civil Procedure 56 does not limit the number of motions*
53 *that may be filed.... a motion for summary judgment could be filed "at any time"*
54 *after certain events.... In effect, the possibility of summary judgment remains on*
55 *the table even after a district court has denied a summary judgment motion*
56 *because that order is "subject to reconsideration by the court at any time." Dessar*
57 *v. Bank of Am. Nat'l Trust & Sav. Ass'n, 353 F.2d 468, 470 (9th Cir. 1965).")*
58 Quoting Hoffman v. Tonnemacher, 593 F.3d 908, 911

59
60 **II. A Successive Summary Judgment Motion is Allowed and Explicitly**
61 **Warranted Under Ninth Circuit Law Because the Evidentiary Record**
62 **Has Expanded**

63 While Hoffman confirms a district court's discretion to block repetitive
64 motions, the Ninth Circuit holds that a prior denial of summary judgment does not
65 -- and should not -- bar a successive motion when a party presents an expanded
66 factual or evidentiary record; and that a denied summary judgment motion may be
67 reconsidered at any time before final judgment (*see Preaseau v. Prudential Ins.*
68 *Co. of Am., 591 F.2d 74, 79 (9th Cir. 1979)).*

69 As stated, Plaintiff's forthcoming motion is the antithesis of a "repetitive"
70 motion. It is built upon an entirely new, expanded record consisting of highly
71 relevant deposition and expert testimony that did not exist when the First MSJ was

72 briefed. Once again, the Court did not deny on the merits but a procedural failure
73 on an already months-earlier corrected issue thereby concluding the denial was
74 interlocutory and non-final.

75 Because the "law of the case" doctrine does not apply to interlocutory
76 summary judgment denials where new evidence comes to light, a successive
77 motion is the correct procedural vehicle to resolve this action. *Arizona v.*
78 *California*, 460 U.S. 605, 618 (1983). "*Law of the case directs a court's discretion;*
79 *it does not limit the tribunal's power.*" *Southern R. Co. v. Clift*, 260 U. S. 316, 260
80 U. S. 319 (1922); *Messenger v. Anderson*, 225 U. S. 436, 225 U. S. 444 (1912).

81 Further, binding 9th circuit authority generally allows successive motions for
82 summary judgment, even in generally barred situations where estoppel and
83 preclusion are present; lending to the notion that Plaintiff's request is not
84 extraordinary given the circumstances which wholly prevented the Court from
85 reaching the merits here. (See *Cable & Computer Tech. Inc. v. Lockheed Sanders,*
86 *Inc.*, 214 F.3d 1030, 1038 (9th Cir. 2000); *Preaseau v. Prudential Ins. Co. of*
87 *Am.*, 591 F.2d 74, 79-80 (9th Cir. 1979).

88 In *Hoffman*, the 9th circuit goes on to state "*our sister circuits have held that*
89 *district courts may permit successive motions for summary judgment... Joining*
90 *those circuits, we now hold explicitly that district courts have discretion to*
91 *entertain successive motions for summary judgment*") and then provides those

exact decisions which, ideally, will too persuade this Court: *{Narducci v. Moore, 572 F.3d 313, 324 (7th Cir. 2009); Lexicon, Inc. v. Safeco Ins. Co. of Am., Inc., 436 F.3d 662, 670 n.6 (6th Cir. 2006); Sira v. Morton, 380 F.3d 57, 68 (2d Cir. 2004); Fenney v. Dakota, Minn. & E. R.R. Co., 327 F.3d 707, 718 (8th Cir. 2003); Enlow v. Tishomingo County, 962 F.2d 501, 506–07 (5th Cir. 1992).}*

III. Rokoko Has Answered The Complaint

The Court issued an OSC for 12(b)(6) and remained concerned of the Plaintiff’s copyright provenance. However, after the Defendants’ received Plaintiff’s copyright deposit copy, then deposed him; rather than moving to dismiss – they answered the Complaint, signaling provenance may no longer be an issue. Therefore this motion is ripe for adjudication without interruption regarding Copyright registrations or provenance.

IV. Rokoko’s Deposition, Expert Witness And Discovery Productions Resolve Liability

Rokoko has admitted to: (1) having no ability to track user assent; (2) collecting the Plaintiffs animation files; (3) the Plaintiff being bound by the 2020 terms and having no evidence otherwise; (4) their expert illustrated pictorially that the works filed with the copyright office match the works in Rokoko’s own

possession; (5) That Rokoko has in fact sublicensed users' animation data to a third party; (6) That the data Rokoko now values, sublicenses and uses was simply "*a byproduct of hosting the data*"; (7) That Rokoko "never considered" making the animations themselves rather than take them from users; (8) That Rokoko's software can in fact be installed, opened and used without ever seeing or agreeing to the terms & conditions; (9) Rokoko expressly admitted to the copying of at least 243 of Plaintiff's ~852 animation files; (10) Rokoko's own newly produced log files entirely defeat any license argument they attempted to make; (11) Rokoko admits that the only terms & conditions which *would otherwise* authorize collection "have never applied to the Plaintiff"; (12) The Court may see that the provenance of the Plaintiff's copyright registration is no longer at issue.

Accordingly, Plaintiff requests leave to file his renewed motion for summary judgment on this expanded and dispositive record

V. The Plaintiff Did Not Have a Full And Fair Opportunity To Litigate

As the previous motion was denied due to a procedural, typographical or clerical error, which congress expressly ratified statutory remediation; and that the Plaintiff had resolved, the Plaintiff did not have a full and fair opportunity to have the issue of liability reached. ("*To preclude parties from contesting matters that they have had a full and fair opportunity to litigate protects their adversaries from the*

132 *expense and vexation attending multiple lawsuits, conserves judicial resources,*
133 *and fosters reliance on judicial action by minimizing the possibility of inconsistent*
134 *decisions.")* (Montana v. United States, supra, at 440 U. S. 153-154). Plaintiff
135 contends exactly the same sentiment Montana echoed; the Court's denial was
136 issued without reaching those merits and so the Court's hesitation to allow the
137 Plaintiff's ability to litigate them under Rule 56 is prejudicial.

138
139 **VI. The Holding of Hoffman v. Tonnemacher Strongly Favors Plaintiff's**
140 **Request**

141 The Court's Order relies on Hoffman to deny leave, but Hoffman also can be
142 read to command the opposite result on these facts. In Hoffman, the Ninth Circuit
143 made clear that permitting successive summary judgment motions is highly logical
144 because it fosters the "just, speedy, and inexpensive resolution of suits." 593 F.3d
145 at 911–12 (quoting Fed. R. Civ. P. 1).

146 The Ninth Circuit explained that a district court's discretion should be
147 exercised to entertain a renewed motion whenever it can "weed out" cases or
148 claims before trial, thereby saving massive amounts of judicial and private
149 resources.

150 Here, the proposed renewed motion will not burden the Court with repetitive
151 arguments; rather, it will swiftly resolve the entire litigation because Defendant has

legally surrendered the factual disputes under oath.

VII. The Technical Clerical Issue Has Been Completely Cured

A successive motion is heavily favored where a previous denial was based on a curable technical or procedural defect rather than a failure on the substantive merits. See *In re Dual-Deck Video Cassette Recorder Antitrust Litig.*, 11 F.3d 1460, 1463 (9th Cir. 1993) (allowing successive motions for summary judgment despite collateral estoppel).

This Court's prior denial was without prejudice and turned strictly on a technical copyright certificate typo. That typo was immediately corrected and cured months prior. With the structural roadblock removed, the substantive merits are now ripe for adjudication. Denying a strongly evidenced summary judgment motion strictly because an earlier iteration stumbled on a cured typo would penalize judicial economy, prejudice all parties – **especially Rokoko** who would be forced to endure another 8 months of litigation and trial at great expense.

VIII. Defendant's Direct Admissions Eliminate Any Genuine Dispute of Material Fact, Rendering a Trial Unnecessary

Under Federal Rule of Civil Procedure 56(a), summary judgment must be granted if the movant shows there is no genuine dispute as to any material fact and

172 the movant is entitled to judgment as a matter of law. Celotex Corp. v. Catrett, 477
173 U.S. 317, 322 (1986).

174 Because Defendant and Defendant's expert have now admitted to all liability
175 conduct, there is zero factual dispute left for the Court to try in its forthcoming
176 bench trial. Forcing this case to a full trial under these circumstances directly
177 subverts Federal Rule of Civil Procedure 1, harms both parties, the Court and the
178 taxpayers who also foot the bill.

179 Trial is designed to resolve genuine disputes of fact; it is not a punitive
180 mechanism for a party that suffered a cured, technical clerical error early in
181 litigation.

182
183 **IX. CONCLUSION**

184 The renewed motion will not require the Court to revisit arguments
185 previously rejected. Instead, it asks the Court to evaluate a materially expanded
186 evidentiary record that did not exist when the original motion was decided.
187

188 For the foregoing reasons, Plaintiff Matthew Walsh respectfully requests
189 that this Court:
190

191 1. **GRANT** Plaintiff leave to file the relevant deposition transcripts in any
192 state the Court deems fit and;

193
194 2. **GRANT** Plaintiff leave to file his Renewed Motion for Summary
195 Judgment.

196
197 I declare under penalty of perjury under the laws of the United States of America
198 that the foregoing is true and correct.

199
200 Executed this Tuesday, July 28, 2026, in Santa Clarita, California.

201 

Matthew R. Walsh
Plaintiff In Pro Per

CERTIFICATE OF GENERATIVE AI USE

The undersigned certifies that this submission **does not** use 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.

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Plaintiff appearing in pro per, certifies that this brief contains 1,971 words, which complies with the word limit of L.R. 11- 6.2