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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]*

**DECLARATION OF MIKKEL
OVERBY IN SUPPORT OF
DEFENDANT ROKOKO
ELECTRONICS' MOTION FOR
SUMMARY JUDGMENT**

*[Concurrently Filed With Motion for
Summary Judgment; Separate Statement
of Uncontroverted Facts; Declaration of
Ricardo Tobon; Declaration of Jakob
Balslev; Declaration of Gerardo V.
Gorospe; Compendium of Evidence;
Application to File Under Seal;
Declaration of Gerardo V. Gorospe ISO
App. to Seal; [Proposed] Order]*

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Time: 1:30 p.m.
Place: Courtroom 5D

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DECLARATION OF MIKKEL OVERBY

I, Mikkel Overby, declare:

1. I am COO and CFO of Defendant Rokoko Electronics (“Rokoko”). I have been employed by Rokoko since April 2016. In my role as COO and CFO, I am familiar with Rokoko’s products, its Rokoko Studio software platform and the process through which users register for the platform, its Terms of Use (including any changes), its data-storage practices, and its licensing of motion capture data. I make this declaration based on my personal knowledge, on Rokoko’s business records maintained in the ordinary course of business, and on information made available to me in my capacity as COO and CFO at Rokoko. If called as a witness, I could and would testify competently thereto.

2. I submit this declaration in support of Rokoko’s Motion for Summary Judgment brought against Plaintiff Matthew R. Walsh.

3. Rokoko was founded in 2014 in Copenhagen, Denmark. Rokoko sells motion capture hardware products and software to businesses, professionals, and consumers. Rokoko’s first product was the Smartsuit Pro I, an inertial motion capture suit that was designed to make professional motion capture accessible to all users. Rokoko later launched Smartgloves for finger tracking, as well as several other motion capture products. In January 2022, Rokoko launched its Smartsuit Pro II.

4. Rokoko also offers a Motion Library, which is a marketplace allowing users to purchase professional-quality motion capture assets to use in their projects. The assets sold in Rokoko’s Motion Library are not derived from user data. The assets are from twenty professional motion capture studios that Rokoko has individual reseller agreements with.

5. Rokoko’s Smartsuit and Smartglove products can be used in Rokoko Studio, a proprietary software service offered by Rokoko that allows users to capture,

1 animate, live stream, edit, and export character animation projects. To use Rokoko
2 Studio, users must first create a Rokoko account. To create an account, users are
3 prompted to enter their email and create a password. Users are then sent a verification
4 email to verify their account. Once verification is complete, the user's Rokoko ID can
5 be used to log into Rokoko Studio.

6 6. To create motion capture data using Rokoko's products, the user wears
7 Rokoko's motion capture hardware (such as the Smartsuit Pro or Smartgloves), which
8 captures and records the wearer's movements. Those movements are translated into
9 data and then uploaded to the Rokoko Studio platform to allow that user to edit the
10 resulting digital models.

11 7. Prior to January 2022, Rokoko Studio was not supported by a cloud-based
12 infrastructure. In that prior software, only the user could access any raw motion capture
13 data that the user stored in its account, which would automatically be saved in local
14 folders.

15 8. In January 2022, Rokoko launched the online, cloud-based version of
16 Rokoko Studio to all users. The prior, non-cloud version of the software was renamed
17 "Rokoko Studio Legacy," which remains available for download and use today, though
18 Rokoko has ceased further development of Rokoko Studio Legacy. Rokoko does not
19 have access to any files a user may have produced using the Rokoko Studio Legacy
20 software (*i.e.*, prior to January 2022), as those are produced and saved on a user's local
21 drive rather than on any cloud-based storage space. Overall, Rokoko encourages users
22 to move to the new version, but allows users that wish to stay in Legacy to do so.

23 9. With the cloud-based version of Rokoko Studio, once a motion capture file
24 is added to a user's Rokoko Studio account, it is automatically uploaded to the cloud,
25 and any edits a user makes to the file are also automatically uploaded (or "synced") to
26 the cloud. Within Rokoko Studio, users see a "cloud icon" indicating that their data is
27 being synced, which can be clicked to display a list of all content being synced.
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1 10. Rokoko decided to shift to a cloud-based version of Rokoko Studio
2 because it offered a unique range of benefits to users, such as ensuring backup in case
3 a user loses or damages their computer. It also allows users to access their files from
4 any computer they wish and enables a range of new features, such as team collaboration
5 from other cloud-based services (*e.g.*, Google Cloud and Figma).

6 11. Rokoko Studio offers five plans: Starter, Basic, Plus, Pro, and Enterprise.
7 Users using the first four plans consent to Rokoko using their data through continued
8 use of the software. The Enterprise plan allows users to opt out of their data being used.
9 Mr. Walsh utilized the Starter plan for his account. Based on my review of Rokoko's
10 business records, Mr. Walsh has never opted in to the Enterprise plan.

11 12. As of 2022, the Rokoko Studio software allows users to store their motion
12 capture animations on a cloud-based system that only the individual user, or the team
13 that the user designates, and Rokoko's backend engineering team have access to.
14 Rokoko pays all costs associated with hosting, backing up, and securing the motion
15 capture files to the cloud. Rokoko contracts with Amazon Web Services to provide
16 cloud storage and store all synced data.

17 13. Based upon my review of Rokoko's business records kept in the ordinary
18 course of business, Mr. Walsh has registered the following account with Rokoko
19 Studio, matthew@winteryear.com, which was created on September 21, 2020. Mr.
20 Walsh has also used the following emails on Rokoko's e-commerce
21 platform: dev@playnothing.com, matthew@logicnine.com, matthew@winteryear.co
22 m.

23 14. True and correct copies of Shopify receipts showing Mr. Walsh's purchase
24 history of Rokoko products, produced in this action bearing Bates numbers
25 ROKOKO_0000048 through ROKOKO_0000051, are attached hereto as **Exhibit E**.

26 15. Before a consumer uses Rokoko Studio for the first time or continues to
27 use it after each update to the Terms of Use, a window pops up on the user's computer
28 screen containing the most recent Terms of Use. Rokoko designed its software with the

1 intention that in order to access Rokoko Studio, a user must accept the Terms of Use.
2 Rokoko did not design Rokoko Studio to be accessible without viewing and agreeing
3 to the most recent Terms of Use each time they are updated.

4 16. In or about 2020, when Mr. Walsh registered his accounts with Rokoko,
5 the operative terms were Rokoko's End User License Agreement. A true and correct
6 copy of Rokoko's 2020 End User License Agreement, produced in this action bearing
7 Bates numbers ROKOKO_0000054 through ROKOKO_0000059, is attached hereto as
8 **Exhibit F.**

9 17. On February 20, 2025, Rokoko sent an email informing its users, including
10 Mr. Walsh, that certain changes would be made to its Terms of Use within thirty days
11 and that "[b]y continuing to use Rokoko products after March 22, 2025, you'll be
12 agreeing to the updated terms." A true and correct copy of the February 20, 2025 email,
13 produced in this action bearing Bates number WALSH000832, is attached hereto as
14 **Exhibit G.**

15 18. A true and correct copy of Rokoko's Terms of Use, effective March 22,
16 2025, produced in this action bearing Bates numbers ROKOKO_0000081 through
17 ROKOKO_0000088, is attached hereto as **Exhibit H.**

18 19. Rokoko's business records reflect that Mr. Walsh logged into his account
19 associated with his matthew@winteryear.com email and used Rokoko Studio multiple
20 times since Rokoko updated its Terms in March 2025. For example, on May 7, 2025,
21 Mr. Walsh created scenes in Rokoko Studio over the course of 3.5 hours. On December
22 25, 2025, Mr. Walsh opened a scene he had created in Rokoko Studio. On December
23 27, 2025, Mr. Walsh utilized Rokoko Studio to search Rokoko's Motion Capture
24 Library. A true and correct copy of a log recording activity and user data associated
25 with Mr. Walsh's Rokoko user account—Matthew Walsh (matthew@winteryear.com)—
26 produced in this action bearing Bates numbers ROKOKO_0000247 through
27 ROKOKO_0000280 is attached hereto as **Exhibit I.**

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1 20. Rokoko has never sublicensed Mr. Walsh's motion capture data to a third
2 party and Mr. Walsh's motion capture data is not part of any of Rokoko's generative AI
3 or motion capture products.

4 21. Since its Terms of Use were updated in March 2025, Rokoko has entered
5 into a single, confidential third-party motion-data sublicensing agreement, which was
6 not executed until April 2026, nearly one year after Mr. Walsh filed this lawsuit. Based
7 on my review of Rokoko's business records and my personal involvement with the
8 execution of that sublicensing agreement, none of Mr. Walsh's data has ever been used
9 in connection with that agreement.

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11 I declare under penalty of perjury under the laws of the United States of America
12 that the foregoing is true and correct. Executed on this 23rd day of August 2026, in
13 Copenhagen, Denmark.

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15 Mikkel Overby
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