

1 MATTHEW R. WALSH  
2 19197 GOLDEN VALLEY RD #333  
3 SANTA CLARITA, CA 91387  
4 (661) 644-0012

5 Plaintiff In Pro Per,

6 **UNITED STATES DISTRICT COURT**

7 **CENTRAL DISTRICT OF CALIFORNIA**

MATTHEW R. WALSH  
19197 GOLDEN VALLEY RD #333  
SANTA CLARITA, CA 91387,

Plaintiff In Pro Per,

vs.

ROKOKO ELECTRONICS  
(AND DOES 1 THROUGH 50, INCLUSIVE)  
31416 AGOURA RD STE 118  
WESTLAKE VILLAGE, CA  
91361

Defendant

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

Before: Hon. Otis D. Wright II  
Courtroom 5D

Hearing date: August 4, 2025  
Hearing time: 1:30PM  
Place: Dept. 5D

**PLAINTIFF’S OPPOSITION TO  
DEFENDANT’S MOTION TO DISMISS**

Filed concurrently with:  
- Memorandum of Points and Authorities  
- Supplemental declaration of Matthew R. Walsh

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9  
10 **PLAINTIFF’S OPPOSITION TO DEFENDANT’S MOTION TO DISMISS**

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12 TO THE CLERK OF THE COURT AND TO DEFENDANT(S) AND THEIR COUNSEL OF  
13 RECORD:

14  
15 **PLEASE TAKE NOTICE** that Plaintiff without waiving any arguments hereby opposes  
16 Defendant’s Motion to Dismiss.

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142 **MEMORANDUM OF POINTS AND AUTHORITIES**

143

144 **I. INTRODUCTION**

145 a.) Plaintiff respectfully files this opposition to Defendant’s Motion to Dismiss to  
146 only adhere to Court required timelines, however, that motion is procedurally  
147 improper as it violates Local Rules 7-3 (“failure to meet and confer”), 11-3.1  
148 (“lacking consecutive line numbers”), 7-5(a) (“no memorandum of points and  
149 authorities”), (“lacking a brief but complete memorandum .. and the points  
150 and authorities”), 11-7 (“Appendices are mixed with the body”), 11-8  
151 (“headings and subheadings missing”), 11-6.1 (“false word count”), and 11-  
152 6.2 (“false word count on certificate”), further the fact that it contains a false  
153 certification statement to the court according to Local Rule 11-9 carries  
154 sanctions.

155

156 b.) Plaintiff respectfully submits this Opposition solely to preserve the record and  
157 does not concede that this Court has proper subject-matter jurisdiction.  
158 Plaintiff maintains that this action was improperly removed and continues to  
159 assert that vacatur of the removal is appropriate. Nothing herein shall be  
160 construed as acquiescence to federal jurisdiction but instead to demonstrate  
161 Plaintiff’s willingness to participate in the judicial process in good faith.

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163 **II. LEGAL STANDARD**

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- 166 1. L.R. 7-3 – Pre-Filing Conference of Counsel: Requires parties to meet and confer at  
167 least 7 days before filing certain motions, including motions to dismiss.
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181 to make parts and repair information available for at least seven years after product  
182 manufacture.
- 183 9. Civ § 1761(d) – CLRA Definition of “Consumer”: Defines a consumer as an  
184 individual acquiring goods/services for personal, family, or household purposes.
- 185 10. Civ § 1670.5(a) – Unconscionable Contracts – Judicial Power: Permits courts to  
186 refuse to enforce a contract (or any clause) found to be unconscionable at the time  
187 made.

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189 on a contract’s commercial setting, purpose, and effect when unconscionability is  
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- 195 14. PC § 502(c)(1) – Unauthorized Access: Prohibits knowingly accessing and using any  
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198 or taking of data or programs.
- 199 16. PC § 502(c)(2) – Knowingly Accessing Data to Defraud or Obtain Value: Prohibits  
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202 code intended to disrupt or damage computers.
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226 Protects wire, oral, and electronic communications while in transit and when stored.

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229 **III. ARGUMENT**

230 **1. Plaintiff Fails To Properly Plead His Tortious Interference Claim.**

231 **2. “No contracts exist”**

232 c. ) Plaintiff objects that contracts do exist (Exhibits 180-182). Entertainment  
233 contracts and involvement are often accompanied by Non Disclosure

234 Agreements, which Plaintiff swore a duty to uphold and so, they are attached  
235 in NDA-safe/redacted form. All parties which are involved with this game  
236 have done so under signed agreements. The evidence of those Contracts is  
237 clear from the involvement of notable parties: **Ron Wasserman** – Prestigious  
238 6x ASCAP award winning Hollywood composer with over 3,100  
239 entertainment titles and famed work for the Power Rangers, X-Men and  
240 DragonBall Z theme songs as well as award-winning work on SpongeBob  
241 Squarepants; and work on Monty Python, Ace Ventura and more. (Exhibit  
242 107, 115, 117) and; **Aries Spears** – Comedian and actor, star of MadTV  
243 from 1997 – 1995 known for his work also on Def Comedy Jam, All Star  
244 Comedy Jam, Showtime at the Apollo, A Different World, Soul Train, Jerry  
245 Maguire, South of Sunset and his recurring stand-up at The Improv and The  
246 Laugh Factory and; **Alexis Mincolla** – Front-man of the Sony-signed neo-  
247 industrial metal band 3teeth who not only licensed an entire album to  
248 Plaintiff's game, but also his acting and appearance as the antagonist. (Exhibit  
249 115, 117) also appearing on merchandise (Exhibit 122). Alexis and 3teeth are  
250 also featured in Fortnite, Guns Akimbo (Daniel Radcliffe), and others. and;  
251 **Dino Cazares** – Rolling Stone's #81 greatest guitarist of all time. Founder of  
252 the bands Fear Factory, Brujeria, Aesop Rock, Divine Heresy and others.  
253 Licensed logo, music, acting and his appearance as an antagonist in  
254 Plaintiff's game. and; **Kathleen Fisher** – Billboard Top 40 (#36) singer and  
255 Trance Top 40 electronic music singer who has performed on tracks by  
256 notable artists Armin Van Buuren, Aly & Fila, Sean Tyas, Paul Van Dyk,

257 George Acosta, The Thrillseekers, Filo & Peri, Leon Bolier, Richard Durand,  
258 Guiseppe Ottaviani -- she acts in Plaintiff's game as a protagonist. and;  
259 **Alien Vampires** – Industrial/aggro duo which licensed 19 songs to Plaintiff's  
260 game as well as acting and appearing as antagonists. and; International  
261 video game licensing contract with **Nintendo®** with release-ready SKU  
262 (HAC-P-BCV4A) (Exhibit 28) and; International video game licensing  
263 contract with **Sony®** with release-ready SKU (CUSA34165\_00) and;  
264 **Additional contracts include** industrial/metal bands Grendel, Mass  
265 Hypnosis, Aimee Saturne, Drallion and electronic artists Under This and  
266 others. Further, numerous acting and performance contracts with performers  
267 (Exhibit 108-110)

268 **3. "Plaintiff does not allege Rokoko had any actual knowledge"**

269 d. ) Plaintiff has in fact alleged – as early as the Complaint -- that Defendant  
270 knew. In fact, Defendant offered Plaintiff a discount on the equipment in  
271 exchange for social media attention, and was tagged directly back (Exhibit  
272 131) from a page hosting the professionally executed productions (Exhibit 106  
273 – 131). Additionally, Defendant had refused relief for about 6 months before  
274 receiving the early civil Complaint and did nothing to cure (Exhibit 191-193).  
275 Additionally, Defendant had the early civil Complaint for 90 days,  
276 participated in ODR and Arbitration and *still* did not cure.

277 **4. "Plaintiff has failed to allege any intentional actions".**

278 a. ) **(First)** Plaintiff has shown a 270+ day long refusal to provide parts, repair or  
279 replacement which is an intentional act to disrupt (Exhibit 184-186).

280 (Second) Defendant also made coercive claims directly to Plaintiff demanding  
281 that he drop the lawsuit and only *then* will they comply with Song-Beverly  
282 (Exhibit 166). (Third), Plaintiff has demonstrated through Defendant’s  
283 own technical logs that they: (Fourth) released firmware which the  
284 developer notated “*Important: This breaks compatibility with older hub +*  
285 *glove FWs*” to purposely destroy older hardware (Exhibit 47) so that they may  
286 sell newer units to Plaintiff. (Fifth) sold and continued trying to sell  
287 “wires” to Plaintiff when they always knew the problem was the firmware  
288 poisoned the hardware (Exhibit 175, 176), as their own software reported it to  
289 them (Exhibit 190) and in fact, these situations are not unique to Plaintiff but  
290 affected many customers (Exhibit 7-27). Further,

291 5. ***“Plaintiff has not pled any facts demonstrating that the purported contracts were***  
292 ***actually disrupted”***

293 a. ) Plaintiff doesn’t need to plead the obvious; inference borrowed from shared  
294 logic is enough to satisfy: A music studio without microphones is a disrupted  
295 production, a movie set without cameras is a disrupted production, a video  
296 game without the ability to record movements for characters is a disrupted  
297 production.

298 6. ***“or that he has suffered economic harm”***

299 a. ) This is a factual issue of which the details are meant to be addressed during  
300 discovery and trial. For each day a production is delayed or disrupted, future  
301 economic benefit deteriorates. Direct economic harm is evident prima facie as  
302 and Plaintiff’s sizable investment (financial, sweat and time) including but not

303 limited to the costs of Defendant’s equipment; have been extinguished by  
304 Defendant’s actions. Additionally, Plaintiff had two pending books (Exhibit  
305 125) and was in discussions with a renowned production studio regarding a  
306 TV series (Exhibit 177) based on Plaintiff’s 370 page screenplay (Exhibit  
307 112) intended for Hulu, Shutter or Tubi (Exhibit 124), as well as numerous  
308 contracts (Exhibit 180, 181), Spotify deals (Exhibit 182) and more.

309 **7. “Plaintiff’s speculative and attenuated allegations that “[s]imilar game**  
310 **productions . . . can expect \$9M - \$18M for moderate success, \$30M in success”**  
311 **are not sufficient.”**

312 a. ) That statement mischaracterizes the basis of Plaintiff’s valuation. Valuations  
313 in industries ranging from real estate to cars, boats and more rely on  
314 comparable market benchmarks – not guarantees – to establish reasonable  
315 market expectations. Additionally, Plaintiff’s game has been valued at  
316 between \$55M to \$75M (Exhibit 183) by a Rockstar Games / ‘Grand Theft  
317 Auto’ career expert game developer who remains personally thanked in the  
318 credits and website of the aforementioned.

319 **8. “Either the economic relationship with a third party is too attenuated or the**  
320 **probability of economic benefit too speculative.”**

321 b. ) Plaintiff argues simply that there is nothing attenuated or speculative about  
322 1:1 contracts (Exhibit 181, 182, 183) with multiple notable parties, and two  
323 active licensing deals with Sony® and Nintendo® with release-level SKU’s, a  
324 nearly-complete AA quality open world video game (Exhibit 119-121), IGN  
325 press coverage (Exhibit 106), a live Hollywood game event (Exhibit 105),

326 two books, merchandising (Exhibit 122) and discussions about adaptation to  
327 streaming TV (Exhibit 177). These are fixed commercial assets with imminent  
328 commercial release.

329 **c. ) Causation of Failure:** Plaintiff's game requires animation, Defendant's  
330 equipment provides that animation. Defendant broke Plaintiff's equipment  
331 intentionally using poisoned firmware (Exhibit 47), always knew what the  
332 issue was (Exhibit 190, 186) and continually tried to get Plaintiff to buy *wires*  
333 multiple times (Exhibit 184, 185) knowing they'd not fix the issue and  
334 directly lying to Plaintiff stating "*the logs indicate cabling issues*" when the  
335 logs actually showed sensor errors (Exhibit 186). Defendant refused to fix the  
336 required equipment in any capacity, halting the game from completing while  
337 always being aware (Exhibit 185, 190).

338 **d. ) This claim must survive.**

339  
340  
341

342 **9. Plaintiff's Claim For Violations Of The Song-Beverly Act Fail As A Matter Of Law**

343 **10. "Consumer goods" within the meaning of the Song-Beverly Act is limited to "any**  
344 ***new product or part thereof that is used, bought, or leased for use for personal,***  
345 ***family, or household purposes."***

346 **e. )** Plaintiff agrees with Defendant's definition of consumer goods. Plaintiff  
347 purchased these goods using his own personal name, personal credit card, had  
348 no company name, had no office address, and therefore had no place of

349 business. They were shipped to his home address (Compl Ex. 90-93) where he  
350 used them (Exhibit 175) for personal purposes: to *learn* game development.

351 ***11. “Plaintiff purchased the Rokoko products for commercial use, not personal use”***

352 f. ) This is demonstrably false. Plaintiff was not and is not a professional game  
353 developer and has never profited from any game production whatsoever.

354 Game development is one of the most complex understandings in the field of  
355 software learning takes time and iterative learning.

356 g. ) Defendant’s suits were purchased as a logical next step to continue *learning*  
357 game development on his own time as a hobbyist, while working two full time  
358 jobs.

359 h. ) In fact, the game Plaintiff is now attempting to release (2025) is not the same  
360 game he was developing at the time of purchase (2020). The current game is  
361 titled The Next World (2025); the game in development when the suits were  
362 purchased was titled The Nothing (2018), and prior to that, simply Nothing  
363 (2016). These personal projects are materially and functionally distinct from  
364 one another and in fact do not share even a single line of code nor were the  
365 concepts remotely similar (Exhibit 176, Exhibit 177).

366 ***12. “Plaintiff could state a cognizable claim for consumer goods under the Song-  
367 Beverly Act—he cannot—such a claim is barred because he did not bring his claim  
368 within one year after purchasing the products.”***

369 i. ) Defendant’s statement is entirely incorrect. Cal. Civ. Code § 1793.03 requires  
370 that “Every manufacturer making an express warranty with respect to an  
371 electronic or appliance product” – “shall make available to service and

372 *repair facilities sufficient service literature and functional parts to effect the*  
373 *repair of a product for at least seven years after the date a **product model or***  
374 ***type** was manufactured, regardless of whether the seven-year period exceeds*  
375 *the warranty period for the product”. Plaintiff made numerous requests for*  
376 *parts, but Defendant refused (Exhibit 186, 135, 136, 191-193) despite*  
377 *Defendant advertising parts and service (Exhibit 62). Defendant directly lied*  
378 *about the cause of the failure (Exhibit 184, 187) and demanded Plaintiff*  
379 *purchase the latest model of equipment for nearly *six months*; even though*  
380 *that new equipment contained the same parts as the unit Plaintiff owned*  
381 *(Exhibit 26). This is not limited to Plaintiff, but other customers as well*  
382 *(Exhibit 1-25)*

383 ***13. “claim for breach of implied warranty under Song-Beverly Act accrues upon***  
384 ***delivery”***

385 j.) This is incorrect. California Court of Appeal has held that “*breach of implied*  
386 *warranty may occur after delivery, or when the latent defect manifests” (see:*

387 *Mexia v. Rinker Boat Co., Inc., 174 Cal.App.4th 1297 (2009)). Further,*  
388 *Defendant intentionally shipped Plaintiff non-functional repair parts on or*  
389 *about April of 2024 (waybill # 7604427213) and then delayed Plaintiff for*  
390 *over a year (Exhibits 184-187). Defendant’s defense is barred by the doctrine*  
391 *of unclean hands as they **(First)** intentionally released mandatory firmware*  
392 *updates (Exhibit 189) which destroyed Plaintiff’s equipment (Exhibit 47) and*  
393 *the equipment of many of their customers (Exhibit 1-25) as planned*  
394 *obsolescence; and **(Second)** intentionally mislead Plaintiff about the true*

395 cause of the issue while always knowing both from log files (Exhibit 94, 184,  
396 187) and realtime diagnostics sent to them by their own equipment (Exhibit  
397 198); and sold “wires” while knowing they would not resolve the “sensor”  
398 problems they caused. (Exhibit 94)

399 ***14. “Beverly claim relates to Rokoko’s Services, Rokoko has expressly disclaimed any***  
400 ***warranties and the SongBeverly Act is therefore inapplicable”***

401 k. ) Defendant’s counsel in that sentence admitted to disclaiming warranty; a  
402 violation itself of Song-Beverly.

403 l. ) Defendant’s own website “All Rokoko Products Come with a default one Year  
404 Warranty(period)”. No other disqualifiers or modifiers are present. Further,  
405 ALL manufacturers selling products in California lack the ability to disclaim  
406 Song-Beverly consumer protections; especially when offering a 1-year  
407 express warranty which is black-letter law under Cal. Civ. Code § 1793.03.  
408 Defendant does offer such a warranty publicly: (Exhibit 61). Rokoko’s  
409 admission that it knowingly disclaims coverage while simultaneously offering  
410 a one-year express warranty — in direct violation of California law — is not  
411 only false advertising but a textbook trigger for Song-Beverly protections.

412 m. ) Further it is a direct violation of Song-Beverly to simply not provide parts  
413 or repair services within the 7-year statutory period after the last manufacture  
414 date of a model or type -- Cal. Civ. Code § 1793.03(b) which Defendant  
415 refused for nearly a year.

416 n. ) Plaintiff meets every statutory requirement of a consumer under the Song-  
417 Beverly Act. Defendant’s arguments are speculative, unsupported, and  
418 premature.

419 o. ) **This claim must survive.**

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423 **15. Plaintiff False Advertising Claim Fails As A Matter Of Law**

424 ***16. “Plaintiff’s use of Rokoko’s Services are provided “as-is” and without warranty”***

425 p. ) Defendant’s Counsel is fundamentally misunderstanding the scope and the  
426 technology. The software, services and hardware are all part and parcel. One  
427 component. Defendant admits that the software is useless without the  
428 hardware, the hardware is useless without the software and services (Exhibit  
429 179). As found in Corley v. Stryker Corp. the court concluded that warranty  
430 and product liability apply to the product as a whole; not only the physical  
431 equipment, but also “software” which was “a necessary part” of the “product”  
432 as a whole, and therefore was subject to strict liability as a “*component part*  
433 *even though, physically, the software was entirely separate from the device.*”  
434 Further, Under UCC § 2-316(1) a seller cannot disclaim an express warranty  
435 once made; and Defendant does so post-sale in hidden terms.

436 ***17. “such statements are not false or misleading, and therefore do not sufficiently***  
437 ***support a cause of action for false advertising.”***

438 q. ) Plaintiff disagrees, as does 15 U.S.C. § 1125(a). Selling a product with clear  
439 and conspicuous messaging that says “*All Rokoko products come with a*

440 *default one year warranty*” and then in hidden contract terms, disclaiming any  
441 warranties or fitness of a literal required component **after purchase** is false  
442 advertising; By Defendant’s absurd logic, Tesla should be able, under  
443 California law, to advertise vehicles with an 8 year warranty, then in separate  
444 post-purchase terms, disclaim warranty of the very core operating software,  
445 “as-is”, even though it is paramount for the operational existence their  
446 vehicles. This invalidates required components warranty’s by proxy. No  
447 software, no Tesla. Akin to Defendant -- whose software, services and  
448 hardware are inseparable and not interchangeable with any other software or  
449 hardware beyond Defendants. Negation or limitation of warranty of any one  
450 component affects all others by immediate proxy and doing so is inoperative  
451 under UCC § 2-316(1).

452 r. ) Further, Plaintiff’s False Advertising claims extend beyond product warranty  
453 claims but into the broader issues raised in the Complaint regarding materially  
454 false statements of worldwide presence such as stating ‘250,000 creators  
455 worldwide use us!’ while in other posts ‘10,000 customers!’ and  
456 others ‘30,000 customers’ as well as claims of offices in major cities with  
457 teams in them; which are demonstrably false – **those offices do not exist**  
458 (Exhibit 74, 69-73). Defendants “HQ” is a 400sqft locked basement with no  
459 staff, equipment or manufacturing whatsoever (Exhibit 65-67). Claims of  
460 100+ employees worldwide (Exhibit 74) which also was demonstrated to be  
461 false.

462 s. ) The difference between false statements and marketing puffery, easily falls to  
463 fraud when Defendant themselves rely on those statements to gain a valuation  
464 of \$250M (Exhibit 197) while knowing they are false and others will rely on  
465 them. When challenged, Defendant expressly doubles-down and present them  
466 as true to Plaintiff in direct communications (Exhibit 143). It is not excusable  
467 to make materially false statements to induce reliance generally and  
468 furthermore, false statements such as these presented to both consumer *and*  
469 investors when a fiduciary duty is owed to the latter is false advertising and  
470 fraudulent inducement to both resulting in measurable instantaneous and  
471 latent harm.

472 t. ) Defendant knew their advertising was false and would hurt Plaintiff and  
473 consumers alike, so they attempted to contract out of liability (Compl ¶ 31)  
474 “*shall not be liable to you... for (i) any reliance placed by you on the*  
475 *completeness, accuracy, or existence of any advertising*”

476 u. ) **Plaintiff relied on those statements** -- If not for Defendant’s false  
477 advertising and claims; and that Plaintiff would be entering into a relationship  
478 where his hardware would be intentionally disabled while his intellectual  
479 property would be taken and resold secretly by Defendant; he would never  
480 have purchased or used their equipment, software or services. No reasonable  
481 person would *pay thousands for that*.

482 v. ) **This claim must survive.**  
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**18. Plaintiff's Claims For UCL And CLRA Fail As A Matter Of Law**

***19. Plaintiff Has Not Alleged That Rokoko Was Aware Of A Defect At The Time Of Sale***

w. ) This is a demonstrably false statement and is part of the Complaint and evidence. Plaintiff notified Defendant of multiple defects immediately, within days of purchasing the equipment as shown in the Complaint. Further, Defendant Mikkel Overby shipped a replacement unit to Plaintiff (Exhibit 90-93). Further, Defendant was notified that they gloves were falling apart upon arrival and nonfunctional. Further, Defendant *was always aware* of defects. Not only did Defendant purposely release poisoned firmware to break Plaintiff's equipment (Exhibit47) his software secretly transmits diagnostics live (Exhibit 190, 94) – yet Defendant refused to acknowledge that as the cause of Plaintiff's equipment failures, instead, lying to have him purchase parts (“wires” instead of “sensors”) to intentionally never remedy the harm.

***20. Plaintiff Is Not A “Consumer” Within The Meaning Of CLRA***

a. ) *“To have standing, a plaintiff must be a “consumer” or “an individual who seeks or acquires, by purchase or lease, any goods or services for personal, family, or household purposes.” See Balsam v. Trancos, Inc., 203 Cal. App. 4th 1083, 1088 (2012) (quoting Cal. Civ. Code § 1761(d)).* As demonstrated in the 2<sup>nd</sup> Cause of Action for Song-Beverly Violations; Defendant is an individual, who purchased goods from Defendant in 2020 for personal use

509 (learning game development) and of which was shipped to, and used in the  
510 household primarily. Plaintiff has still not used Defendant's hardware to profit  
511 even \$1 commercially. Additionally, Defendant endlessly advertises their  
512 products intended for personal, household use: "*How to do Motion Capture at*  
513 *Home: A Simple Guide*", "*Smartsuit Pro, having Hollywood motion capture*  
514 *technology in your home*", "*The hardware you need to do motion capture at*  
515 *home*", "*Hardware for professional motion capture at home*", "*You can*  
516 *capture the animation you need at home using a simple setup.*", etc.

517 ***21. Plaintiff admits that he purchased products from Rokoko for his professional use,***  
518 ***not for "personal, family, or household purposes."***

519 a.) This is simply incorrect. Plaintiff is not a professional and has never profited  
520 even a dollar from game development. He purchased the equipment in 2020 to  
521 learn game development, and for years after only used it within his home.  
522 Further, his wife is the only person who has operated Defendant's software  
523 while Plaintiff performs actions for recording within the suit (Exhibit 110).  
524 This is easily verifiable through public information and discovery processes  
525 which Defendant has avoided in State Court.

526 b.) Lastly, Defendant openly made coercive statements to Plaintiff stating they  
527 knew the hardware was destroyed and would not fix it unless the civil suit  
528 with all claims was dismissed (Exhibit 166) a strict violation of CLRA.

529 ***22. "Plaintiff Failed To Comply With CLRA's Pre-Suit Notice Requirements"***

530 a.) Defendant was notified by personal service of their failures under the CLRA  
531 (Cal. Civ. 1750-1784, CCP 1770) on or about April 17, 2025 and given

532 express demands and opportunities to cure. Defendant not only failed to cure  
533 but actually increased the number of CLRA violations including not not  
534 limited to: misrepresenting Plaintiff’s consumer rights, failing to honor  
535 warranties, inserting additional unconscionable contract terms, implementing  
536 further methods of false advertising.

537 **23. “Plaintiff’s UCL Claim Is Derivative Of His CLRA and Song-Beverly Act Claims”**

538 a. ) Even if CLRA or Song-Beverly claims were dismissed (they shouldn’t be),  
539 Plaintiff’s UCL claim survives independently under the unfair and fraudulent  
540 prongs. Defendant’s misconduct — including false advertising, intentional  
541 firmware lockouts and planned obsolescence, using tools to secretly exfiltrate  
542 Plaintiff’s intellectual property, refusal to honor refunds, and secret use of out-  
543 of-state unlicensed attorneys , who under the contract of Defendant  
544 ghostwrote and authored filings bearing illegally placed signatures —  
545 constitute unfair competition regardless of statutory tethering.

546 b. ) Multiple independent bases support UCL liability: (first) Breach of warranty =  
547 “unlawful” prong. (second) Withholding defect disclosures = “fraudulent”  
548 prong. (third) Coercive refund evasion and post-sale sabotage = “unfair”  
549 prong. (fourth) Civil Code violations and even ethical breaches by legal  
550 counsel may qualify. UCL is intentionally broad. *[“[A]n ‘unfair’ business*  
551 *practice occurs when it offends an established public policy or when the*  
552 *practice is immoral, unethical, oppressive, unscrupulous or substantially*  
553 *injurious to consumers.”]; *State Farm Fire & Casualty Co. v. Superior Court,**

554 *supra, 45 Cal.App.4th at p. 1104 [“ the court must weigh the utility of the*

555 *defendant's conduct against the gravity of the harm to the alleged victim' "].)*  
556 *[20 Cal. 4th 185]*

557 **c. ) This claim must survive.**

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560 **24. "Plaintiff's Claim For "Misappropriation Of Intellectual Property" Fails As A**  
561 **Matter Of Law"**

562 **25. "Plaintiff Has Not Identified Any Purported Trade Secret With The Requisite**  
563 **Specificity."**

564 a. ) This is demonstrably false. Plaintiff did not plead the obvious in his  
565 Complaint that: 'Video games are movies which the entire universe must be  
566 reinvented for it in vast depth'. Just as in movies, the scripts, scenes, plots,  
567 story are all trade secrets meant to be disclosed when release is imminent or  
568 passed; never before. As found in *Defiance Button Mach. Co. v. C & C Metal*  
569 *Prods. Corp.*, 759 F.2d 1053, 1063 (2d Cir. 1985): "*In order to successfully*  
570 *state a claim for trade secret misappropriation, courts require that the*  
571 *[plaintiff-]possessor of a trade secret take reasonable measures to protect its*  
572 *secrecy.*". The story, acting, music, other content and cinematic scenes in  
573 Plaintiff's video game are protected by strict NDA and protected by Copyright  
574 under 17 U.S.C. Section 102 and further registered with the Writers Guild of  
575 America (WGA Reg # 2288210) and the U.S. Copyright Office  
576 (#14,954,598,732). Notwithstanding that Plaintiff brought this as a state

577 matter (where copyright office registration is not required) and Defendant  
578 removed to Federal to purposely attempt to subvert Plaintiff's copyright.  
579 b. ) Plaintiff's intellectual property qualifies as a trade secret at a minimum and is  
580 afforded further protections as 17 U.S.C. § 412(2) "*Registration as a*  
581 *prerequisite to certain remedies for infringement*" ... "*The work was*  
582 *registered within 3 months of first publication*". First publication expressly  
583 defined under 17 U.S.C. § 101 as "*the distribution of copies or phonorecords*  
584 *of a work to the public by sale or other transfer of ownership, or by rental,*  
585 *lease, or lending.*". As Plaintiff's game has not been transferred or sold  
586 whatsoever to the public, it's "first publication" date has not even occurred yet  
587 and so is not time barred for registration.

588 **26. "Plaintiff Has Failed To Plead A Misappropriation"**

589 a. ) Plaintiff literally shared digital forensics in both image (Exhibit 29-60) and  
590 video (Exhibit 171-174) which clearly show Defendant misappropriating  
591 Plaintiff's intellectual property in real-time. Further, Defendant admits to  
592 taking Plaintiff's intellectual property, stripping (or "Anonymizing") it's  
593 authorship data to sell to third parties – one of which is an Alter Ego of  
594 Defendant ("Rokoko Care" aka "Coco"). Lastly, as shown in Plaintiff's MSJ;  
595 Defendant has added a counter to their website [www.rokoko.com](http://www.rokoko.com) which  
596 admits collection, aggregation, storage and counting of users intellectual  
597 property: "*1,156,410 Human motion assets created By our global community*  
598 *of Rokoko motion capture tools users - Count refreshes daily*". (Exhibit 178)  
599 Defendant since 2022 has sought investor money and admitted in it's pitch

600 deck (Exhibit 76-86) that it planned to misappropriate Plaintiff's intellectual  
601 property to sell to third parties and use in their "Parallel Company" (Rokoko  
602 Care) which is a separate investment vehicle alter-ego of Defendant registered  
603 to the same abandoned basement office "HQ". Plaintiff claims to now be  
604 worth \$250M (Exhibit 197) through investors who have since joined due to  
605 this pitch deck.

606 **27. "Plaintiff's Intellectual Property Infringement Claim Fails As A Matter Of Law"**

607 a. ) *New York Times Company v. Microsoft Corporation* found Defendants precise  
608 actions (misappropriation of IP to train an AI model) are concrete to satisfy  
609 the injury-in-fact requirement for Article III standing.

610 b. ) Plaintiff has met every prong for intellectual property infringement, and  
611 Defendant has made countless express admissions in their pitch deck (Exhibit  
612 76-86), their revenue and Company worth based upon it, interviews with  
613 Defendant which claim they do so, and their investors who admit the same  
614 (Exhibit 154,155). Further, Defendant procured a \$93,000,000.00 equity  
615 stake investment from the worlds leading metaverse company who is a  
616 recipient of the misappropriated intellectual property; in addition to many  
617 more investments for the same.

618 c. ) Lastly, Defendant's own equity shareholders, and themselves (as their parralel  
619 company "Rokoko Care"); have made express statements that they were the  
620 recipients and benefactors of Plaintiff's misappropriated IP. They have  
621 bragged openly in blogs, interviews, press releases and advertisements.  
622 (Exhibit 154,155)

623 d. ) This claim must survive.

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629 **28. “Plaintiff Fails To State A Claim Under the Digital Millenium Copyright Act”**

630 **29. “Plaintiff Lacks Standing Due To Failure To Allege A Cognizable Injury”**

631 a. ) The theft of ones confidentially held, unreleased intellectual property --  
632 especially when that damaging Party monetizes the work of another for profit  
633 without authorization *is a cognizable injury prima facie* notwithstanding that  
634 he has expert valuations of his intellectual property performed; and so real  
635 value is established and significant. This is further reaffirmed in New York  
636 Times Company v Microsoft Corporation.

637 **30. “Plaintiff Fails To State A Claim Under § 1202(b)(1)”**

638 b. ) New York Times Company v Microsoft Corporation disagrees as does  
639 Plaintiff.

640 c. ) Plaintiff is the sole owner of the intellectual property in question. These works  
641 contain(ed) Copyright Management Information (“CMI”) in the form of file  
642 and embedded metadata which includes the author name, project title, title of  
643 the creative work, creation date, additional actor(s) by name which are  
644 included in the scene as well as specific device serial numbers and unique  
645 identifiers (Exhibit 141, 142). Further, Defendant pairs that data with  
646 biometrics identifying Plaintiff specifically (Exhibit 55) and additionally

647 receives such CMI information separately for cataloging in their remote  
648 databases (Exhibit 56)

649 d. ) § 1202(b)(1) says: “No person shall, without the authority of the copyright  
650 owner or the law— (1) intentionally remove or alter any copyright  
651 management information, (2) knowing, or having reasonable grounds to  
652 know, that it will induce, enable, facilitate, or conceal an infringement...”.

653 Wherefore, Plaintiff at the time of Complaint literally provided live, video  
654 evidence showing that: **(first)** CMI (“authoring metadata”) exists in the files  
655 and **(second)** Defendant removes that CMI and that **(third)** Defendant’s terms  
656 and conditions as of March 29, 2025 state they *will* strip CMI from the works  
657 to “anonymize” it (Compl. ¶ before resale to third parties and **(fourth)**  
658 Defendant openly admits to that intention in investor decks since at least 2022  
659 (Exhibit 76-86) and **(fifth)** Defendant openly admits to doing so in magazine  
660 interviews (*see Motion to Strike Defendants Removal Declaration SET1*) and  
661 **(sixth)** Defendant added a counter to his own website to display the amount of  
662 intellectual property collected in real-time and **(seventh)** Live video (Exhibit  
663 171-174) and photographic evidence (Exhibit 35-39, 50, 52, 53) demonstrate  
664 absolutely that Plaintiff’s intellectual property was taken by Defendant.

665 e. ) *Stevens v. CoreLogic, Inc.*, 899 F.3d 666, 673 (9th Cir. 2018) states “DMCA  
666 liability attaches if metadata was removed with the knowledge that it would  
667 conceal infringement.” Of which Defendant literally states in their T&C’s  
668 “All user content is to be fully **anonymized** and never distributed in it’s  
669 original form from any subcontractor or third-party licensor”. A party

670 removing an authors name from a book to profit from the work within it, does  
671 not obliterate that authors ownership over the works within, it gives claim to  
672 misappropriation and –if used- infringement as causes of action. The same  
673 simple logic applies here.

674 f. ) As black-letter law, Defendant’s intent and actions are precisely what 17  
675 U.S.C. Title 102 and 1202(b) were enacted to prevent -- the protection of  
676 ownership and attribution in creative works, and the prohibition on removing  
677 that attribution to enable infringement..

678 g. ) Stevens v. CoreLogic and the DMCA sets forth protections against knowing  
679 removal or alteration of CMI when done with intent to induce, enable,  
680 facilitate, or conceal infringement. Under Stevens v. CoreLogic, Plaintiff does  
681 not need to prove actual infringement, just that Defendant removed or altered  
682 CMI with intent to allow or conceal it; and further as Defendant has openly  
683 admitted to it’s intents to do so (Compl ¶ 72, 74), as well as openly admitting  
684 to actually doing so; Plaintiff is justified in bringing action and further  
685 violations under U.S.C. § 1203(c)(3)(B).

686 h. ) As found in New York Times Company v Microsoft Corporation: “Dismissal  
687 of a copyright infringement claim on statute of limitations grounds at the  
688 pleadings stage is only appropriate when it is clear from the face of the  
689 complaint” -- ”that the plaintiff’s claims are barred as a matter of law”. 17  
690 U.S.C.A. §§ 501, 507(b); Fed. R. Civ. P. 12(b)(6).”

691 **i. ) This claim must survive.**

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**31. “Plaintiff’s “Unconscionable Contract Terms” Claim Fails As A Matter Of Law”**

j. ) Unconscionability is fact-driven and requires an intensely factual inquiry, not suitable for dismissal under Rule 12(b).

k. ) “*A contract of adhesion containing oppressive and surprise terms in a consumer context may be deemed unconscionable.*” This principle was highlighted in the case of *Szetela v. Discover Bank*, 97 Cal. App. 4th 1094, 1100 (2002). Plaintiff and Defendant’s Counsel’s own admissions - have demonstrated that Defendant owns multiple-sets of “terms and conditions” most of which are overriding in nature and hidden from consumers until at least post-purchase (Exhibit 173). Further, Plaintiff has demonstrated that Defendant has altered his terms and conditions 67+ times in 5 years with only one notice (Exhibit 194) and that those terms which changed drastically in late march set to retroactively grant Plaintiff unilateral rights over Plaintiff’s intellectual property while simultaneously chilling access to the Courts; disclaiming warranty’s and more; all of which was non-present one day prior (Exhibit 195, 196, 172).

l. ) Defendant does not raise unconscionability as a monetary claim, but instead for the Court to make a decision on whether the terms are unconscionable or not. As Plaintiff has raised UCL and CLRA claims, *Perdue v. Crocker*

717 *National Bank* and Civil Code § 1670.5 codified the equitable doctrine of  
718 unconscionability into statutory law, and therefore it can be raised as a claim  
719 of which the remedy, absent the inherent power of the Court, is refusal to  
720 enforce or recognize any such terms of the agreement, or the agreement as a  
721 whole as invalid.

722 m. ) The Court has continually upheld that Defendant’s contractual terms and  
723 the matter in which they are made available are unlawful and further: Civ.  
724 Code, § 1670.5(a) reinforces “*If the court as a matter of law finds the contract*  
725 *or any clause of the contract to have been unconscionable at the time it was*  
726 *made the court may refuse to enforce the contract*” and additionally, Civ.  
727 Code, § 1670.5(b) enables Plaintiff to bring such a matter to the Court for  
728 determination: “*When it is claimed or appears to the court that the contract*  
729 *or any clause thereof may be unconscionable the parties shall be afforded a*  
730 *reasonable opportunity to present evidence as to its commercial setting,*  
731 *purpose, and effect to aid the court in making the determination.*”

732 **n. ) This claim must survive.**

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736 **32. “Plaintiff’s Claim For “Illegal Deployment Of Code & Privacy Violations” Fails**  
737 **As A Matter Of Law.”**

738 o. ) This claim is fact-driven and requires an intensely factual inquiry, not suitable  
739 for dismissal under Rule 12(b).

740 p. ) Further, the Defendant is incorrect. California Invasion of Privacy Act (CIPA)  
741 is the controlling authority on this exact issue and not only is it a matter of  
742 civil law it is a matter of criminal law under Cal. Penal Code § 631(a), and  
743 particularly CA Penal Code§ 502; (specifically applicable under (c)(1),  
744 (c)(1)(b), (c)(2), (c)(7), (c)(13)).

745 q. ) Defendant has made multiple express admissions and Plaintiff has video  
746 evidence (Exhibit 171-174) and investor pitch decks (Exhibit 76-86) which  
747 provably show intent to execute their long-planned scheme to defraud.  
748 Defendant meets the criteria under CA Penal Code § 502(e)(1)(A) [“*devise or*  
749 *execute any scheme or artifice to defraud, deceive, or extort*”] and while a  
750 criminal statute, CA Penal Code § 502(e)(1) makes civil action possible  
751 against Defendant as it states: “*Any person who suffers damage or loss by*  
752 *reason of a violation... may bring a civil action against the violator.*”.

753 r. ) Plaintiff has demonstrated that he is a victim of intellectual property theft and  
754 additionally, that Defendant deprived him of locally available source files  
755 (Exhibit 173, 173) by way of deletion once the theft has occurred, a strict  
756 violation of CA Penal Code §502(c)(1) and as a method to induce reliance on  
757 Defendant and their services to perpetuate a cycle of harvesting intellectual  
758 property from Plaintiff;

759 s. ) Defendant’s software secretly sends personal information including biometric  
760 data, a catalog of hardware and software installed on Plaintiff’s machine  
761 (Exhibit 58), detailed device diagnostics (Exhibit 59), even Plaintiff’s wifi  
762 SSID and info (Exhibit 60) and user telemetry when anything is accessed or

763 clicked (Exhibit 31). This is textbook digital overreach and Plaintiff reserves  
764 the right to raise this as a possible IIPE (Intrusion Into Private Economic  
765 Affairs) claim.

766 t. ) Defendant has also demonstrated that on desktop-based software (which does  
767 not use web-based code unless designed to) receives remotely deployed  
768 JavaScript from unsecure AWS servers that Defendant owns for local  
769 execution on Plaintiff's machine (Exhibit 49)

770 u. ) Additionally Defendant ignores the Computer Fraud and Abuse Act (18  
771 U.S.C. § 1030) and Electronic Communications Privacy Act (ECPA): Both  
772 statutes support claims when a party accesses a protected computer without  
773 authorization or exceeds authorized access.

774 v. ) **This claim must survive.**

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778 **33. "Plaintiff's Fraud-Based Claims Fail As A Matter Of Law"**

779 **34. "Plaintiff Has Not Sufficiently Pled Claims For Fraud In The Inducement,**

780 **Fraudulent Misrepresentation Or Fraudulent Concealment."**

781 a. ) FRCP 9(b) requires specificity — the Complaint provides it entirely from day

782 1. **(Who)** Jakob Balslev, Mikkel Overby, Rokoko, Investors, Recipients,

783 Parallel Companies, etc. **(What)** Made specific false representations about

784 system reliability, firmware integrity, warranty terms, availability of parts and

785 repair services, promised future support, false statements of staff count, office

786 locations, company capabilities, etc. **(When)** On or about 2020-2025.

787                   **(Where)** Plaintiff and Defendant’s communications, advertising materials,  
788                   pitch decks, terms and conditions, websites, videos, social media, other forms  
789                   of evidence, etc. **(How)** Rokoko made affirmative misrepresentations and  
790                   omitted material facts while knowing the system had released poisoned  
791                   firmware, and receiving live diagnostics to the actual issue with Plaintiff’s  
792                   equipment and further, misleading Plaintiff on the cause and remedy while  
793                   simultaneously pilfering his intellectual property and misleading other  
794                   customers and investors alike. **(Why)** to destroy Plaintiff and consumers’  
795                   older hardware forcing them to buy new and produce higher-quality  
796                   animations that Defendant could secretly misappropriate for the purpose of  
797                   building their \$250M (Exhibit 197) IP-funnel enterprise entirely designed to  
798                   misappropriate mass amounts of IP from unsuspecting creators. Whose  
799                   admitted intent is to resell to third-parties while seeking investor money for  
800                   multiple vehicles which use the same IP; backed by Defendant’s own  
801                   statements, investor decks and terms and conditions.

802                   **b. )** Plaintiff has sufficiently pled all elements of fraud, including inducement,  
803                   misrepresentation, and concealment, with the specificity required by Rule  
804                   9(b). Defendant made multiple false statements before and during the  
805                   transaction, concealed material facts within its exclusive knowledge, and  
806                   engaged in a pattern of deceptive behavior intended to induce Plaintiff’s  
807                   reliance. These facts are pled with particularity, supported by documentation,  
808                   and result in clear economic harm. Dismissal under Rule 12(b)(6) is improper.

809                   ***35. “Plaintiff’s Fraud Claims Are Also Barred By The Economic Loss Doctrine”***

810 c. ) The economic loss doctrine does not bar fraud-based torts where fraud is  
811 independent of the contract. Plaintiff provides thirteen causes of action, nearly  
812 all of them involving blatantly evidenced fraud committed (and expressly  
813 admitted) by Defendant. California courts have repeatedly held that the  
814 economic loss rule does not apply where: “(a) *The defendant engaged in*  
815 *fraudulent inducement into the contract, or (b) There is intentional*  
816 *misrepresentation, concealment, or deceit that exists independently of the*  
817 *breach.*”

818 d. ) Robinson Helicopter Co. v. Dana Corp found “[I]n each of these cases, the  
819 duty that gives rise to tort liability is either completely independent of the  
820 contract or arises from conduct which is both intentional and intended to  
821 harm.” (*Id. at p. 552, 87 Cal.Rptr.2d 886, 981 P.2d 978; see also Harris v.*  
822 *Atlantic Richfield Co. (1993) 14 Cal.App.4th 70, 78, 17 Cal.Rptr.2d 649*  
823 *[“when one party commits a fraud during the contract formation or*  
824 *performance, the injured party may recover in contract and tort”].*)

825 e. ) **Plaintiff’s Fraud Claim’s must survive.**

826  
827 **CONCLUSION**

828 All of Plaintiff’s claims survive as a matter of law. Due to the overwhelming evidence and fact-  
829 specific questions against Defendant and their actions, dismissal at this stage for any cause of  
830 action is entirely inappropriate for a Rule 12(b) as specifically stated in 12(b)(6): “*The choice*  
831 *between two plausible inferences that may be drawn from factual allegations is not a choice to*  
832 *be made by the district court on a motion to dismiss for failure to state a claim; fact-specific*

833 *questions cannot be resolved on the pleadings.*”. Further, as jurisdiction has not been  
834 established, this Court lacks standing to decide on the merits until jurisdiction has been  
835 established per Rule 12(b)(1).

836  
837 Plaintiff hereby requests that Defendant’s improper and highly defective **motion to dismiss** be  
838 stricken from the record.

839 Executed this 14 day of July, 2025 in Santa Clarita, California.  
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842  
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849 Plaintiff in pro per  
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**CERTIFICATE OF COMPLIANCE**

The undersigned, counsel of record for Plaintiff appearing in pro per, certifies that this brief contains 6,924 words, which complies with the word limit of L.R. 11-6.2. The memorandum of points and includes a table of contents in compliance with L.R. 11-8.

DATED: July 13, 2025



Matthew R. Walsh  
Plaintiff in pro per