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Telephone: +1 312 207 1000  
9 Facsimile: +1 312 207 6400

10 *Attorneys for Defendant,*  
Rokoko Electronics, *et al.*

11  
12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 MATTHEW R. WALSH

15 Plaintiff,

16 vs.

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

18 Defendant.  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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 KATHERINE  
ELLENA IN SUPPORT OF  
DEFENDANT ROKOKO  
ELECTRONICS' RULE 26(f)  
REPORT AND DISCOVERY PLAN**

State Court Action Filed: May 12, 2025  
Removal Date: June 12, 2025  
Trial Date: None

REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

**DECLARATION OF KATHERINE ELLENA**

I, Katherine Ellena, declare:

1. I am an attorney with Reed Smith LLP and counsel for Defendant Rokoko Electronics (“Rokoko”). I have personal knowledge of the following facts and, if called as a witness, I could and would testify competently thereto.

2. I submit this declaration in support of Rokoko’s Rule 26(f) Report and Discovery Plan.

3. On November 7, 2025, I sent Plaintiff in pro per Matthew Walsh (“Mr. Walsh”) a draft of the Parties’ Joint Rule 26(f) Report for his review and comments. Unfortunately, Mr. Walsh would not agree to file the Report jointly, thus necessitating Rokoko’s filing of its own Rule 26(f) Report. A true and correct copy of my email communications with Mr. Walsh between November 7, 2025 to November 10, 2025 regarding the Joint Rule 26(f) Report is attached hereto as **Exhibit A**.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct and that this declaration was executed on November 10, 2025, in Los Angeles, California.

/s/ Katherine J. Ellena

Katherine J. Ellena

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A limited liability partnership formed in the State of Delaware

# **EXHIBIT A**

**Valencia, Heather R.**

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**From:** matthew@winteryear.com  
**Sent:** Monday, November 10, 2025 10:15 AM  
**To:** Ellena, Katherine J.  
**Cc:** Galibois, Michael B.; Graue, Emily H.; Gorospe, Valentino  
**Subject:** RE: Rokoko - Joint Rule 26(f) Report.docx

External E-Mail - FROM [matthew@winteryear.com](mailto:matthew@winteryear.com) <matthew@winteryear.com>

**This message needs your attention**

- Some Recipients have never replied to this person.

Report or Mark Safe

Powered by Mimecast

I already filed my half with the Court yesterday. Docket 89-1

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**From:** Ellena, Katherine J. <KEllena@reedsmith.com>  
**Sent:** Monday, November 10, 2025 10:10 AM  
**To:** matthew@winteryear.com  
**Cc:** Galibois, Michael B. <MGalibois@reedsmith.com>; Graue, Emily H. <EGraue@reedsmith.com>; Gorospe, Valentino <VGorospe@reedsmith.com>  
**Subject:** RE: Rokoko - Joint Rule 26(f) Report.docx

Okay, Matt. We will proceed with filing our own report then.

**Katherine J. Ellena** | Senior Associate  
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213.457.8000 | Fax: 213.457.8080

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| Greece | Hong Kong | Houston | Kazakhstan | London | **Los Angeles** | Miami | Munich | New York | Paris |  
Philadelphia | Pittsburgh | Princeton | Richmond | San Francisco | Shanghai | Silicon Valley | Singapore | Tysons |  
Washington DC | Wilmington

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**From:** [matthew@winteryear.com](mailto:matthew@winteryear.com) <matthew@winteryear.com>  
**Sent:** Monday, November 10, 2025 10:08 AM  
**To:** Ellena, Katherine J. <[KEllena@reedsmith.com](mailto:KEllena@reedsmith.com)>  
**Cc:** Galibois, Michael B. <[MGalibois@reedsmith.com](mailto:MGalibois@reedsmith.com)>; Graue, Emily H. <[EGraue@reedsmith.com](mailto:EGraue@reedsmith.com)>; Gorospe, Valentino <[VGorospe@reedsmith.com](mailto:VGorospe@reedsmith.com)>  
**Subject:** RE: Rokoko - Joint Rule 26(f) Report.docx

External E-Mail - FROM [matthew@winteryear.com](mailto:matthew@winteryear.com) <matthew@winteryear.com>

I am not going to argue with you. The wording is clear. Not within 7 days. In advance of.

You had 60 days to do this. You can explain to the judge why you didn't.

---

**From:** Ellena, Katherine J. <[KEllena@reedsmith.com](mailto:KEllena@reedsmith.com)>  
**Sent:** Monday, November 10, 2025 9:36 AM  
**To:** [matthew@winteryear.com](mailto:matthew@winteryear.com)  
**Cc:** Galibois, Michael B. <[MGalibois@reedsmith.com](mailto:MGalibois@reedsmith.com)>; Graue, Emily H. <[EGraue@reedsmith.com](mailto:EGraue@reedsmith.com)>; Gorospe, Valentino <[VGorospe@reedsmith.com](mailto:VGorospe@reedsmith.com)>  
**Subject:** RE: Rokoko - Joint Rule 26(f) Report.docx

Matt –

The joint report is due today per the Court's September 9, 2025 Order. If you do not wish to file a report jointly anymore, please let us know.

**Katherine J. Ellena** | Senior Associate  
[kellena@reedsmith.com](mailto:kellena@reedsmith.com)

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**From:** [matthew@winteryear.com](mailto:matthew@winteryear.com) <[matthew@winteryear.com](mailto:matthew@winteryear.com)>  
**Sent:** Monday, November 10, 2025 9:32 AM  
**To:** Ellena, Katherine J. <[KEllena@reedsmith.com](mailto:KEllena@reedsmith.com)>  
**Cc:** Galibois, Michael B. <[MGalibois@reedsmith.com](mailto:MGalibois@reedsmith.com)>; Graue, Emily H. <[EGraue@reedsmith.com](mailto:EGraue@reedsmith.com)>; Gorospe, Valentino <[VGorospe@reedsmith.com](mailto:VGorospe@reedsmith.com)>  
**Subject:** RE: Rokoko - Joint Rule 26(f) Report.docx

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It was due yesterday. Not today. The time has passed.

“no later than”  
“in advance of”  
“7 days”

I have filed for default. I think throughout this entire process with you/your client, which I've played extremely fair, that I've finally earned it.

But we'll see I guess.

Matt

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**From:** Ellena, Katherine J. <[KEllena@reedsmith.com](mailto:KEllena@reedsmith.com)>  
**Sent:** Monday, November 10, 2025 6:29 AM

To: [matthew@winteryear.com](mailto:matthew@winteryear.com)

Cc: Galibois, Michael B. <[MGalibois@reedsmith.com](mailto:MGalibois@reedsmith.com)>; Graue, Emily H. <[EGraue@reedsmith.com](mailto:EGraue@reedsmith.com)>; Gorospe, Valentino <[VGorospe@reedsmith.com](mailto:VGorospe@reedsmith.com)>

Subject: Re: Rokoko - Joint Rule 26(f) Report.docx

Hi Matt -

I have asked you whether you have further changes to the joint sections and have not received any from you. If you would like to have a phone call today to discuss any of the joint sections, we are available. Alternatively, if you now do not want to file this report jointly, please let us know.

**Katherine J. Ellena** | Senior Associate  
[kellena@reedsmith.com](mailto:kellena@reedsmith.com)

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From: [matthew@winteryear.com](mailto:matthew@winteryear.com) <[matthew@winteryear.com](mailto:matthew@winteryear.com)>

Sent: Sunday, November 9, 2025 10:02:58 PM

To: Ellena, Katherine J. <[KEllena@reedsmith.com](mailto:KEllena@reedsmith.com)>

Cc: Galibois, Michael B. <[MGalibois@reedsmith.com](mailto:MGalibois@reedsmith.com)>; Graue, Emily H. <[EGraue@reedsmith.com](mailto:EGraue@reedsmith.com)>; Gorospe, Valentino <[VGorospe@reedsmith.com](mailto:VGorospe@reedsmith.com)>

Subject: RE: Rokoko - Joint Rule 26(f) Report.docx

**External E-Mail - FROM [matthew@winteryear.com](mailto:matthew@winteryear.com) <[matthew@winteryear.com](mailto:matthew@winteryear.com)>**

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We have lots to discuss before this is turned in. This is a JOINT report. It was supposed to be collaborative.

We should have been meeting and conferring or at least e-mailing about these points that I've had written since September 27, yet you chose pretty much everything else over doing so.

- You had 60 days to get this done.
- You blew the 26(f) conference deadline on Oct 27.
- I accommodated you late anyways on Oct 30.
- You then agreed to send it to me on Wednesday and blew that deadline.
- Absolute silence until you sent it to me on Friday, where I then had to cancel my weekend plans to get this done as I am the only party here that does not want dismissal. Fine. Whatever.
- I started e-mailing you changes on Friday, silence.
- You enjoyed your weekend instead of working with me.
- Then on Sunday when I gave you changes which included removing blatant lies, you flat out said "No, we're not changing that". By the way – spoliation is my 14<sup>th</sup> cause of action. So, yeah, it does exist. RICO is within the first few pages. The evidence you said doesn't exist? It does. There are pictures with me in studios, with those exact people working on this exact project in the Complaint. The contracts are also filed on the record.

- Sunday came. I get up, and you are finally available. So, instead of spending time with my wife, I was here – trying to work with you.
- I emailed you back as soon as you e-mailed me every single time.
- I gave suggestions that I needed changed so we could get this done TODAY.
- I tried working with you and stayed home all day trying to get this finished but you disappeared after I requested changes for ~9 hours
- So, now, it's 2 hours before the day it's due, after 10PM on a Sunday and I'm getting ready to unwind and go to bed

Unfortunately for you, I've given enough. I've been more than reasonable and accommodating across 60 days. I have other arrangements tomorrow and have zero availability. This should have been finished and filed before then anyways.

At this point, you blew it -- it's not my job to save Rokoko. You played chicken with the clock again and lost.

You can show cause to the judge why your \$1.5B 1,300+ lawyer law firm couldn't bother to dedicate a few solid minutes, from a single member of your staff to work out some dates and terms in a joint report over 60 days.

Lord knows I've tried.

Have a good night Kat,  
Matthew R. Walsh

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**From:** Ellena, Katherine J. <[KEllena@reedsmith.com](mailto:KEllena@reedsmith.com)>  
**Sent:** Sunday, November 9, 2025 8:28 PM  
**To:** [matthew@winteryear.com](mailto:matthew@winteryear.com)  
**Cc:** Galibois, Michael B. <[MGalibois@reedsmith.com](mailto:MGalibois@reedsmith.com)>; Graue, Emily H. <[EGraue@reedsmith.com](mailto:EGraue@reedsmith.com)>; Gorospe, Valentino <[VGorospe@reedsmith.com](mailto:VGorospe@reedsmith.com)>  
**Subject:** RE: Rokoko - Joint Rule 26(f) Report.docx

Matt –

We will make this change. Do you have any other changes to the joint report?

**Katherine J. Ellena** | Senior Associate  
[kellena@reedsmith.com](mailto:kellena@reedsmith.com)

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**From:** [matthew@winteryear.com](mailto:matthew@winteryear.com) <[matthew@winteryear.com](mailto:matthew@winteryear.com)>  
**Sent:** Sunday, November 9, 2025 1:28 PM

To: Ellena, Katherine J. <[KEllena@reedsmith.com](mailto:KEllena@reedsmith.com)>  
Cc: Galibois, Michael B. <[MGalibois@reedsmith.com](mailto:MGalibois@reedsmith.com)>; Graue, Emily H. <[EGraue@reedsmith.com](mailto:EGraue@reedsmith.com)>; Gorospe, Valentino <[VGorospe@reedsmith.com](mailto:VGorospe@reedsmith.com)>  
Subject: RE: Rokoko - Joint Rule 26(f) Report.docx

External E-Mail - FROM [matthew@winteryear.com](mailto:matthew@winteryear.com) <[matthew@winteryear.com](mailto:matthew@winteryear.com)>

The final line “and a hearing on any dispositive motions scheduled for September 28, 2026” should say “and a hearing on any dispositive motions scheduled *before* September 28, 2026”

From: Ellena, Katherine J. <[KEllena@reedsmith.com](mailto:KEllena@reedsmith.com)>  
Sent: Sunday, November 9, 2025 10:23 AM  
To: Matthew R. Walsh (Winteryear Studios) <[matthew@winteryear.com](mailto:matthew@winteryear.com)>  
Cc: Galibois, Michael B. <[MGalibois@reedsmith.com](mailto:MGalibois@reedsmith.com)>; Graue, Emily H. <[EGraue@reedsmith.com](mailto:EGraue@reedsmith.com)>; Gorospe, Valentino <[VGorospe@reedsmith.com](mailto:VGorospe@reedsmith.com)>  
Subject: RE: Rokoko - Joint Rule 26(f) Report.docx

Nothing in the joint report prevents a party from filing a dispositive motion earlier. If you are referring to the below, the proposal is that dispositive motions be filed **no later than** that date.

25           **Defendant’s Position:**  
26           Subject to the outcome of Rokoko’s pending Motion to Dismiss the Complaint,  
27 Rokoko intends to file a dispositive motion as to all causes of action asserted in the  
28 Complaint that are not dismissed with prejudice by reason of the Motion to Dismiss.

– 6 –

JOINT RULE 26(F) REPORT AND DISCOVERY PLAN

1 Rokoko proposes the following dispositive motion schedule: Opening briefs shall be  
2 filed no later than July 1, 2026, opposition briefs shall be filed no later than July 31,  
3 2026, reply briefs shall be filed no later than August 31, 2026, and a hearing on any  
4 dispositive motions scheduled for September 28, 2026.

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**From:** Matthew R. Walsh (Winteryear Studios) <[matthew@winteryear.com](mailto:matthew@winteryear.com)>

**Sent:** Sunday, November 9, 2025 10:17 AM

**To:** Ellena, Katherine J. <[KEllena@reedsmith.com](mailto:KEllena@reedsmith.com)>

**Cc:** Galibois, Michael B. <[MGalibois@reedsmith.com](mailto:MGalibois@reedsmith.com)>; Graue, Emily H. <[EGraue@reedsmith.com](mailto:EGraue@reedsmith.com)>; Gorospe, Valentino <[VGorospe@reedsmith.com](mailto:VGorospe@reedsmith.com)>

**Subject:** Re: Rokoko - Joint Rule 26(f) Report.docx

**External E-Mail - FROM** [matthew@winteryear.com](mailto:matthew@winteryear.com) <[matthew@winteryear.com](mailto:matthew@winteryear.com)>

---

I disagree with the dispositive motion filing date. I explained prior I intend for file for MSJ before the year is over (this year).

Sent via [BlackBerry Hub+ Inbox for Android](#)

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**From:** [KEllena@reedsmith.com](mailto:KEllena@reedsmith.com)

**Sent:** November 9, 2025 9:30 AM

**To:** [matthew@winteryear.com](mailto:matthew@winteryear.com)

**Cc:** [MGalibois@reedsmith.com](mailto:MGalibois@reedsmith.com); [EGraue@reedsmith.com](mailto:EGraue@reedsmith.com); [VGorospe@reedsmith.com](mailto:VGorospe@reedsmith.com)

**Subject:** RE: Rokoko - Joint Rule 26(f) Report.docx

Okay, Matt. The joint report that we sent you on Friday morning addresses all of the topics that the Court has asked us to. As I stated, where the parties do not agree, we have noted Rokoko's position, just as you have noted yours. We did not make any substantive changes to your position statements, only formatting changes to the pleading paper as the Court requires. And I'm sure you saw that your name and contact information was first on the caption page.

The statements in the sections that are clearly labeled "Defendant's Position" are Rokoko's position on the issues and Rokoko will not be making changes to them. Your position is equally noted in your own sections. If you have any changes to the other "joint" sections please let us know.

**Katherine J. Ellena** | Senior Associate

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**From:** Matthew R. Walsh (Winteryear Studios) <[matthew@winteryear.com](mailto:matthew@winteryear.com)>

**Sent:** Friday, November 7, 2025 7:47 PM

**To:** Ellena, Katherine J. <[KEllena@reedsmith.com](mailto:KEllena@reedsmith.com)>

**Cc:** Galibois, Michael B. <[MGalibois@reedsmith.com](mailto:MGalibois@reedsmith.com)>; Graue, Emily H. <[EGraue@reedsmith.com](mailto:EGraue@reedsmith.com)>; Gorospe, Valentino

<VGorospe@reedsmith.com>

Subject: RE: Rokoko - Joint Rule 26(f) [Report.docx](#)

External E-Mail - FROM [matthew@winteryear.com](mailto:matthew@winteryear.com) <matthew@winteryear.com>

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Hello,

Per our agreement on October 30, 2025; this was supposed to be returned to me no later than a week. Michael said "that's a lifetime to a lawyer" and I replied with "(laughs) we'll see". That date has since passed and not to my surprise, it is now the weekend. We should have finalized this already and for that I am seriously disappointed. I hoped in our last meeting, which I was highly sincere about, that we could collaborate positively moving forward. I am beyond disappointed to receive your half of the joint report just now. Cutting the joint report this close is beyond the pale of irresponsible behavior. Where have you been????!!!!??? Why has there been no conversation on these points up to now? You've had this thing for weeks.

Where are the other parts to it? Where is the returned version my ESI protocol that I drafted?? Where is your protected order draft?

Absent yet another frustrating delay from Defense's side, there are some contentions at a minimum:

1. I am unclear why you removed the contents of my joint report draft and placed them onto your letterhead. As I was the party who initiated this document, I wish the document to be filed on my letterhead and by me. Please correct it.
2. Your document is non-compliant as it violates Local Rule 11-3.1
3. There are a number of blatantly false statements in the document which do not reflect the record. Including but not limited to:
  - 4.
  4.
    - a. Claiming I did not plead things that are most certainly in the Complaint if you actually read it.
    - b. Stating evidence was not provided that is as conspicuous as the existence of water while sitting in a canoe in the middle of the ocean is baffling.
5. "Defendants position" cannot be filled with blatant falsities. I am not signing anything until you cross check your statements.

There are tons of issues with your document and only a few grains of sand left in the hourglass.

I am going to be absolutely blunt with you. I am DISGUSTED that you have blown past so many deadlines and pushed the completion of this report just inches from the point of no return. Now its the weekend and instead of being finished, I am now cleaning up a mess that *you made* by your constant delays and broken promises. I am the most irritated right now than I have been at any point in this case.

I hope my irritation comes across with even a modicum of how I truly feel.

This is a stipulation, not a motion filing, you have no right to drop it like an 11TH hour filing and walk off into the sunset.

Fix it. Sent it back.

Matt

**From:** Ellena, Katherine J. <[KEllena@reedsmith.com](mailto:KEllena@reedsmith.com)>  
**Sent:** Friday, November 7, 2025 9:15 AM  
**To:** Matthew R. Walsh (Winteryear Studios) <[matthew@winteryear.com](mailto:matthew@winteryear.com)>  
**Cc:** Galibois, Michael B. <[MGalibois@reedsmith.com](mailto:MGalibois@reedsmith.com)>; Graue, Emily H. <[EGraue@reedsmith.com](mailto:EGraue@reedsmith.com)>; Gorospe, Valentino <[VGorospe@reedsmith.com](mailto:VGorospe@reedsmith.com)>  
**Subject:** Rokoko - Joint Rule 26(f) [Report.docx](#)

Hi Matthew:

We took the draft Joint Report that you sent us and have filled in our sections in the attached further revised draft. We also added a few additional sections that the Court requires the parties to address. Where we have agreed upon things, we have noted that as well.

Please review this and let us know if you have any changes or would like to discuss anything before we finalize it for filing on Monday. You will see we have also set forth a proposed pre-trial schedule for your review.

We are still looking at your ESI Protocol and will send a proposed Stipulated Protective Order shortly, as well.

**Katherine J. Ellena** | Senior Associate  
[kellena@reedsmith.com](mailto:kellena@reedsmith.com)

**ReedSmith** LLP

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