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11 *Attorneys for Defendant*
Rokoko Electronics

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

15 MATTHEW R. WALSH

16 Plaintiff,

17 vs.

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

19 Defendant.

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

[Assigned to Hon. Otis D. Wright, II, Courtroom
5D]

**DECLARATION OF KATHERINE J.
ELLENA IN SUPPORT OF DEFENDANT'S
EX PARTE APPLICATION FOR
ADDITIONAL TIME TO PLEAD OR
OTHERWISE RESPOND TO COMPLAINT**

[Filed Concurrently with (1) Ex Parte
Application; (2) Proposed Order]

Action Filed: May 12, 2025
Removal Date: June 12, 2025
Current Responsive Pleading Due: June 19,
2025
Proposed Responsive Pleading Due: July 10,
2025

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DECLARATION OF KATHERINE J. ELLENA

I, Katherine J. Ellena, declare:

1. I am an attorney with Reed Smith, LLP and counsel for Defendant Rokoko Electronics (“Defendant”). 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 Defendant’s *Ex Parte* Application For Additional Time To Plead Or Otherwise Respond To Plaintiff’s Complaint.

3. Plaintiff’s Complaint consists of 256 pages of allegations and fourteen separate causes of action, including without limitation, fraudulent concealment, unconscionable contract terms, intellectual property infringement, and deceptive business practices. Given the seriousness of the allegations and the volume of the Complaint, Defendant requires additional time to evaluate the factual and legal merits of the Complaint.

4. Defendant is considering filing a motion to dismiss some, or all, of the causes of action asserted in the Complaint on various grounds, including failure to state a claim and statutes of limitations which, if granted, could substantially narrow or resolve the action.

5. On June 12 and June 13, 2025, I instructed my colleague, Emily Graue, to call and email Plaintiff to request his consent to a stipulation of time to respond to the Complaint. She did not receive an answer. Attached hereto as **Exhibit 1** is a true and correct copy of Ms. Graue’s email to Mr. Walsh.

6. On June 13, 2025, Plaintiff informed my office through a phone call that he intended to oppose any motion for enlargement of time. Ms. Graue informed me that Plaintiff stated to her on the phone that he “is going to oppose pretty much everything.”

EXHIBIT 1

Subject: FW: Rokoko Electronics - Motion for the Enlargement of Time Notice

From: matthew@winteryear.com <matthew@winteryear.com>

Sent: Thursday, June 12, 2025 2:08 PM

To: Graue, Emily H. <EGraue@reedsmith.com>

Cc: Galibois, Michael B. <MGalibois@reedsmith.com>; Ellena, Katherine J. <KEllena@reedsmith.com>

Subject: RE: Rokoko Electronics - Motion for the Enlargement of Time Notice

External E-Mail - FROM matthew@winteryear.com <matthew@winteryear.com>



This message needs your attention

• This is their first email to your company.

Report or Mark Safe

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Emily,

Although we spoke on the phone I am responding for the record.

I will be filing a motion to remand on the grounds that a response to the Complaint and removal are untimely and procedurally defective as a general appearance was made by Defendant on or about 5/5/2025 and as stated in 28 U.S.C. § 1446(b):

“The notice of removal of a civil action or proceeding shall be filed within **30 days after the receipt by the defendant, through service or otherwise”**

Further, jurisdiction is well established under 28 U.S.C. § 1446(c).

I seek to continue the case in state Court where it has already been in motion.

Thank you

Matthew R. Walsh

From: Graue, Emily H. <EGraue@reedsmith.com>

Sent: Thursday, June 12, 2025 10:51 AM

To: matthew@winteryear.com

Cc: Galibois, Michael B. <MGalibois@reedsmith.com>; Ellena, Katherine J. <KEllena@reedsmith.com>

Subject: Rokoko Electronics - Motion for the Enlargement of Time Notice

Hi Matthew,

My name is Emily Graue, and I am an attorney at Reed Smith. We represent Rokoko Electronics. We will be filing a Notice of Removal of the case to federal court today as well as a Motion for the Enlargement of Time to Respond to the Complaint. We are asking for an additional 21 days to respond to the Complaint, which would make our response due July 10, 2025. We have attempted to call you twice and have not heard back, so we wanted to reach out to see if you

would agree to the extension of time? These motions are regularly granted. Please let us know if you have any questions or would like to discuss further.

Best,

Emily Graue

Associate

Global Commerical Disputes

She/Her/Hers

EGraue@reedsmith.com

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Reed Smith

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reedsmith.com

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RSUSv12021

EXHIBIT 2

Subject: FW: Notice - Ex Parte Application for Additional Time to Respond to the Complaint Filing

From: matthew@winteryear.com <matthew@winteryear.com>
Sent: Monday, June 16, 2025 4:27 PM
To: Graue, Emily H. <EGraue@reedsmith.com>
Cc: Galibois, Michael B. <MGalibois@reedsmith.com>; Ellena, Katherine J. <KEllena@reedsmith.com>
Subject: RE: Notice - Ex Parte Application for Additional Time to Respond to the Complaint Filing

External E-Mail - FROM matthew@winteryear.com <matthew@winteryear.com>

As stated on the phone I intend to oppose the motion and intend to move to strike your ex parte application.

Thank you!
Matt

From: Graue, Emily H. <EGraue@reedsmith.com>
Sent: Monday, June 16, 2025 2:15 PM
To: matthew@winteryear.com
Cc: Galibois, Michael B. <MGalibois@reedsmith.com>; Ellena, Katherine J. <KEllena@reedsmith.com>
Subject: Notice - Ex Parte Application for Additional Time to Respond to the Complaint Filing

Mr. Walsh,

Defendant Rokoko Electronics, via counsel Reed Smith LLP, will be filing an Ex Parte Application for Additional Time to Respond to the Complaint today, June 16, 2025, pursuant to Local Rule 8-3. This was also indicated when we spoke on the phone earlier. If you wish to oppose this motion, you must respond within 24 hours. Please let us know if you have any questions or would like to discuss further.

Best,

Emily Graue
Associate
Global Commerical Disputes
She/Her/Hers

EGraue@reedsmith.com

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RSUSv12021

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CERTIFICATE OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. I am employed in the office of a member of the bar of this court at whose direction the service was made. My business address is REED SMITH LLP, 515 South Flower Street, Suite 4300, Los Angeles, CA 90071. On June 16, 2025, I served the following document(s) by the method indicated below:

DECLARATION OF KATHERINE J. ELLENA IN SUPPORT OF DEFENDANT’S EX PARTE APPLICATION FOR ADDITIONAL TIME TO PLEAD OR OTHERWISE RESPOND TO COMPLAINT

by transmitting via email to the parties at the email addresses listed below:

Matthew R. Walsh
19197 Golden Valley Rd #333
Santa Clarita, CA 91387
Email: matthew@winteryear.com

I declare under penalty of perjury under the laws of the United States that the above is true and correct. Executed on June 16, 2025, at Los Angeles, California.



Heather Valencia

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