

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

**USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 11/21/2016**

-----X
JENNIFER RONDINELLI REILLY,
Plaintiff,
-v-
PLOT COMMERCE,
Defendant.
-----X

15-CV-5118 (PAE) (BCM)
OPINION AND ORDER

PAUL A. ENGELMAYER, District Judge:

Plaintiff Jennifer Rondinelli Reilly filed this action under the Copyright Act, 17 U.S.C. § 101, *et seq.*, and the Digital Millennium Copyright Act, 17 U.S.C. § 1201, *et seq.* (“DCMA”), alleging that defendant Plot Commerce displayed one her copyrighted photographs on its website without her permission. Dkt. 1. On March 11, 2016, this Court granted Reilly’s motion for a default judgment against Plot Commerce and referred the action to a magistrate judge for an inquest into damages, attorneys’ fees, and costs. Dkt. 15. On October 31, 2016, Magistrate Judge Barbara C. Moses issued a Report and Recommendation to this Court, recommending that the Court award Reilly \$15,000 in statutory damages under the Copyright Act, \$10,000 in statutory damages under the DMCA, and \$5,680 in attorneys’ fees and costs. *See* Dkt. 20 (the “Report”). The Report stated that the parties were required to file any objections by November 17, 2016. To date, the Court has received no objections.

DISCUSSION

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). When specific objections are made, “[t]he district judge must determine

de novo any part of the magistrate judge's disposition that has been properly objected to." Fed. R. Civ. P. 72(b)(3); *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). To accept those portions of the report to which no timely objection has been made, "a district court need only satisfy itself that there is no clear error on the face of the record." *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009) (citing *Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003)); *see also Edwards v. Fischer*, 414 F. Supp. 2d 342, 346-47 (S.D.N.Y. 2006) (citation omitted).

CONCLUSION

Careful review of the thorough and well-reasoned Report reveals that there is no facial error in its conclusions. The Report, which is incorporated by reference herein, is adopted without modification. The Court awards Reilly \$15,000 in statutory damages under the Copyright Act, \$10,000 in statutory damages under the DMCA, and \$5,680 in attorneys' fees and costs. The Clerk of Court is directed to close this case.

The parties' failure to file written objections precludes appellate review of this decision. *See Caidor v. Onondaga County*, 517 F.3d 601, 604 (2d Cir. 2008); *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam). The Court therefore declines to issue a certificate of appealability, and certifies that any appeal from this order would not be taken in good faith; therefore, *in forma pauperis* status is denied for the purpose of an appeal. *Coppedge v. United States*, 369 U.S. 438, 445 (1962).

SO ORDERED.



Paul A. Engelmayer
United States District Judge

Dated: November 21, 2016
New York, New York