

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior Judge Wiley Y. Daniel

Civil Action No. 13-cv-00643-WYD-MEH

MALIBU MEDIA, LLC,

Plaintiff,

v.

STEVE CORENMAN,

Defendant.

ORDER

THIS MATTER is before the Court in connection with Plaintiff's Motion for Entry of Default Judgment Against Steve Corenman ["Corenman"] filed August 15, 2013. This motion was referred to Magistrate Judge Hegarty for a recommendation. A Recommendation of United States Magistrate Judge ["Recommendation"] was issued on September 16, 2013, and is incorporated herein by reference. See 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b).

Magistrate Judge Hegarty recommends therein that Plaintiff's Motion for Entry of Default Judgment be granted in part and denied in part. (See Recommendation at 1, 16.) Specifically, he notes that Defendant Corenman did not answer or respond to the Amended Complaint before the deadline, and that an Entry of Default was docketed by the Clerk of the Court on July 24, 2013. (*Id.* at 7.) Magistrate Judge Hegarty then recommends finding that default judgment be entered in Plaintiff's favor against Corenman pursuant to Fed. R. Civ. P. 55(b)(2). (*Id.* at 9.)

In support of the recommendation, Magistrate Judge Hegarty finds that the Court has jurisdiction and that “Plaintiff has established violations of its copyrights by Defendant Corenman, in that a computer at Corenman’s residence participated in an illegal download of six (6) of Plaintiff’s copyrighted works”. (Recommendation at 9-10.) He further finds that, accepting the well-pled allegations as true, Corenman copied Plaintiff’s copyright protected works, and recommends that the Court find Corenman has committed six (6) direct infringements of the Copyright Act against Plaintiff. (*Id.* at 13.) He also recommends that Corenman be ordered to pay Plaintiff \$13,500.00 in statutory damages (\$2,250.00 per infringement) as authorized by 17 U.S.C. § 504(c)(1), and \$2,995.00 for attorney’s fees and costs as authorized by 17 U.S.C. § 505. (*Id.* at 13-16.)

Finally, Magistrate Judge Hegarty recommends that the Court grant in part and deny in part Plaintiff’s request for injunctive relief. Thus, it is recommended that Plaintiff’s request for an order directing Corenman to “delete and permanently remove the digital media files relating to Plaintiff’s works” and to “delete and permanently remove the infringing copies of the works” from each of the computers under Corenman’s possession, custody or control” be granted as reasonable. (Recommendation at 15.) On the other hand, Magistrate Judge Hegarty recommends that the request to enjoin Corenman “from continuing to infringe Plaintiff’s copyrighted works” be denied, as he finds among other things that Plaintiff failed to proffer evidence sufficient to justify this request. (*Id.* at 15-16.)

Magistrate Judge Hegarty advised the parties that written objections were due within fourteen (14) days after service of the Recommendation. (Recommendation at 1 n. 1.) Despite this advisement, no objections were filed. No objections having been filed, I am vested with discretion to review the Recommendation “under any standard [I] deem[] appropriate.” *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that “[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings”). Nonetheless, though not required to do so, I review the Recommendation to “satisfy [my]self that there is no clear error on the face of the record.”¹ See Fed. R. Civ. P. 72(b) Advisory Committee Notes.

Having reviewed the Recommendation, I am satisfied that there is no clear error on the face of the record. The Recommendation is well reasoned and persuasive. I agree that Plaintiff should be granted default judgment against Corenman for direct copyright infringement of Plaintiff’s copyrighted works. I further agree with the recommendation on damages—that Corenman should pay Plaintiff \$13,500.00 in statutory damages and \$2,995.00 for attorney’s fees and costs. Finally, I agree that Plaintiff’s request for injunctive relief should be granted in part and denied in part as set forth in the Recommendation. Accordingly, it is

¹ Note, this standard of review is something less than a “clearly erroneous or contrary to law” standard of review, Fed. R. Civ. P. 72(a), which in turn is less than a de novo review, Fed. R. Civ. P. 72(b).

ORDERED that the Recommendation of United States Magistrate Judge dated September 16, 2013 (ECF No. 24) is **AFFIRMED and ADOPTED**. In accordance therewith, it is

ORDERED that Plaintiff's Motion for Entry of Default Judgment Against Defendant Steve Corenman (ECF No. 22) is **GRANTED IN PART AND DENIED IN PART**; namely, it is granted as to the request for a default judgment and for damages, and granted in part and denied in part as to the request for injunctive relief. Therefore, it is

ORDERED that the Clerk of Court shall enter judgment in Plaintiff's favor against Defendant Steve Corenman for direct copyright infringement of Plaintiff's copyrighted works, as set forth in Count I of the Complaint. It is

FURTHER ORDERED that Defendant Corenman shall pay Plaintiff the sum of \$13,500.00 in statutory damages and \$2,995.00 for attorney's fees and costs. It is

FURTHER ORDERED that Defendant Corenman shall permanently destroy all the digital media files relating to, and copies of, Plaintiff's copyrighted works made or used by him in violation of Plaintiff's exclusive rights, as well as all masters in his possession, custody or control from which such copies may be reproduced. It is

FURTHER ORDERED that Plaintiff's request to "[p]ermanently enjoin Defendant and all other persons who are in active concert or participation with Defendant from continuing to infringe Plaintiff's copyrighted works" is denied. Finally, it is

ORDERED that this case is terminated.

Dated: October 16, 2013

BY THE COURT:

s/ Wiley Y. Daniel
Wiley Y. Daniel
Senior United States District Judge