

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

Civil Action No. 15-cv-00010-WYD-MEH

DALLAS BUYERS CLUB, LLC, a Texas Limited Liability Company,

Plaintiff,

v.

JOHN BOWENS, also known and previously identified as John Doe 18,

Defendant.

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**ORDER AFFIRMING AND ADOPTING RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

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THIS MATTER is before the Court in connection with Plaintiff's Motion for Entry of Default Judgment Against Defendant John Bowens ["Bowens"] filed August 12, 2015. This motion was referred to Magistrate Judge Hegarty for a recommendation. A Recommendation of United States Magistrate Judge were issued on October 9, 2015, 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. (Recommendation at 1, 15.) He notes that Bowens did not answer or respond to the Amended Complaint before the deadline, and that an Entry of Default was issued on August 10, 2015. (*Id.* at 6.) Magistrate Judge Hegarty further notes that Bowens did not respond to the motion for default judgment. (*Id.*)

It is then recommended that default judgment be entered in Plaintiff's favor against Bowens pursuant to Fed. R. Civ. P. 55(b)(2). (Recommendation at 8.) In support of this, Magistrate Judge Hegarty finds that the Court has jurisdiction and that "taking its allegations as true, the Plaintiff has established violations of its copyrights by Bowens, in that a computer using an IP address assigned to him participated in an illegal download of Plaintiff's copyrighted Motion Picture." (*Id.*) Thus, he "finds that Plaintiff has established Bowens copied Plaintiff's copyright protected Motion Picture" and "recommends the District Court find that Bowens has committed a direct infringement of the Copyright Act." (*Id.* at 11.) As to damages on that claim, it is recommended that Bowens be ordered to pay Plaintiff \$2,250.00 as statutory damages for infringement as authorized by 17 U.S.C. § 504(c)(1), and \$2,823.60 for attorney's fees and costs as authorized by 17 U.S.C. § 505. (*Id.* at 13.) Magistrate Judge Hegarty also recommends, however, that "the District Court find the Plaintiff has failed to demonstrate Bowens' liability as to contributory infringement as set forth in Count II of the Amended Complaint." (*Id.* at 12.)

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 to the Recommendation. 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.”<sup>1</sup> 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 Defendant Bowens for direct infringement of Plaintiff’s copyrighted works. I further agree with the recommendation on damages and attorney’s fees and costs. Finally, I agree that Plaintiff failed to establish Bowens’ liability on contributory infringement under Claim II of the Amended Complaint, and that judgment is not appropriate as to that claim. Accordingly, it is

ORDERED that the Recommendation of United States Magistrate Judge (ECF No. 51) is **AFFIRMED and ADOPTED**. In accordance therewith, it is

ORDERED that Plaintiff’s Motion for Default Judgment Against Defendant John Bowens (ECF No. 19) is **GRANTED IN PART AND DENIED IN PART**; namely, it is granted as to the request for a default judgment and for damages as to the direct infringement claim (Claim I) and denied as to the request for default judgment as to the contributory infringement claim (Claim II). In accordance therewith, it is

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<sup>1</sup> 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 Clerk of Court shall enter judgment in Plaintiff's favor against Defendant John Bowens for direct infringement of Plaintiff's copyrighted works as set forth in Count I of the Amended Complaint. It is

FURTHER ORDERED that Defendant Bowens shall pay Plaintiff the sum of \$2,250.00 in statutory damages and \$2,823.60 for attorney's fees and costs. It is

Dated: December 1, 2015

BY THE COURT:

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