

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

WAYNE R. GRAY,

Plaintiff,

v.

CASE NO: 8:06-cv-1950-T-33TGW

NOVELL, INC., THE SCO
GROUP, INC., and X/OPEN
COMPANY LIMITED,

Defendants.

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ORDER

This cause comes before the Court pursuant to X/Open's Motion for Attorneys' Fees and Costs (Doc. # 164). On February 22, 2010, the Honorable Thomas G. Wilson, United States Magistrate Judge, issued a Report and Recommendation (Doc. # 196), recommending that the motion be granted to the extent that X/Open be entitled to recover its reasonable attorneys' fees incurred in defending the Florida RICO Act claims, and its reasonable costs pursuant to Rule 54(d)(1), Fed. R. Civ. P., and Fla. Stat. § 772.104(3). The Magistrate Judge further recommended that the determination of the amount of the fees and costs be deferred pending resolution of the appeal. Finally, the Magistrate Judge recommended that the motion be denied in all other respects.

On March 9, 2010, Plaintiff filed his Objection to

Report and Recommendation (Doc. # 198). On March 26, 2010, X/Open filed a Response to Plaintiff's Objections (Doc. # 205).

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732, 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). In the absence of specific objections, there is no requirement that a district judge review factual findings de novo, Garvey v. Vaughn, 993 F.2d 776, 779 n. 9 (11th Cir. 1993), and the court may accept, reject or modify, in whole or in part, the findings and recommendations. 28 U.S.C. § 636(b)(1)(C). The district judge reviews legal conclusions de novo, even in the absence of an objection. See Cooper-Houston v. S. Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); Castro Bobadilla v. Reno, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), aff'd, 28 F.3d 116 (11th Cir. 1994).

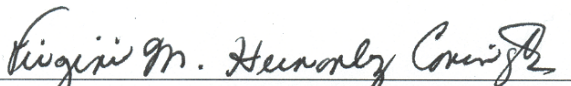
Upon consideration of the Report and Recommendation of the Magistrate Judge, all objections thereto and responses to objections timely filed by the parties and upon this Court's independent examination of the file, it is determined that the Magistrate Judge's Report and Recommendation should be adopted

and all objections overruled.

Accordingly, it is **ORDERED, ADJUDGED, and DECREED:**

- (1) Judge Wilson's Report and Recommendation (Doc. # 196) is **ADOPTED, CONFIRMED, and APPROVED** in all respects and is made a part of this Order for all purposes, including appellate review. Plaintiff's objections are overruled.
- (2) X/Open's Motion for Attorneys' Fees and Costs (Doc. # 164) is **GRANTED** to the extent that X/Open is entitled to recover its reasonable attorneys' fees incurred in defending the Florida RICO Act claims and its reasonable costs pursuant to Rule 54(d)(1), Fed. R. Civ. P., and Fla. Stat. § 772.104(3). The determination of the amount of the fees and costs is deferred pending resolution of the appeal. X/Open shall file an appropriate motion immediately upon resolution of the appeal. The motion is denied in all other respects.

DONE and ORDERED in Chambers in Tampa, Florida, this 28th day of June, 2010.


VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE

Copies to All Parties and Counsel of Record