

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X
BBY SOLUTIONS, INC. AND
BEST BUY STORES, L.P.,

Plaintiffs,

-vs.-

ADAM P. SCHWARTZ,

Defendant.
-----X

ORDER

11-CV-947 (ADS) (ETB)

FILED

IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JAN 06 2012 ★

LONG ISLAND OFFICE

APPEARANCES:

Robins, Kaplan, Miller & Ciersi L.L.P.

Attorneys for the plaintiffs

2800 Lasalle Plaza

800 Lasalle Avenue

Minneapolis, MN 55402

By: Christopher Larus, Esq., Of Counsel

601 Lexington, Suite 3400

New York, NY 10022

By: Hillel Ira Parness, Esq.

Shane Douglas St. Hill, Esq., Of Counsel

NO APPEARANCE:

Adam P. Schwartz

SPATT, District Judge.

On February 25, 2011, plaintiffs BBY Solutions (“BBY”) and Best Buy Stores, L.P. (“Best Buy” and together with BBY “the Plaintiffs”) commenced this action against the defendant Adam P. Schwartz (“Schwartz” or “the Defendant”) seeking damages and injunctive relief for various federal infringement causes of action pursuant to the Trademark Act of 1946, 15 U.S.C. §§ 1051 et seq., and the Copyright Act, 17 U.S.C. §§ 501 et seq., as well as state law claims under the New York General Business Law and New York common law. On June 7, 2011, the Clerk of the Court noted the default of the Defendant, and on October 3, 2011, the Court referred this matter to United States Magistrate Judge E. Thomas Boyle for a recommendation as to whether the motion for a default judgment should

be granted, and if so, whether damages and injunctive relief should be awarded, including reasonable attorney's fees and costs.

On November 17, 2011, Judge Boyle issued a Report and Recommendation that the Court: (1) grant the default judgment; (2) issue an injunction preventing the Defendant from engaging in any further infringing conduct; and (3) award the Plaintiffs attorneys fees in the amount of \$17,640.00 and costs in the amount of \$2,161.62 for a total monetary award of \$19,801.62. With respect to the injunctive relief, Judge Boyle recommended that the Court issue an injunction:

A. Permanently enjoining Schwartz from using, in connection with his services or products, the GEEK SQUAD® Marks, or any confusingly similar variant thereof;

B. Permanently enjoining Schwartz from further and continuing infringement of Best Buy's copyrights, including Best Buy's copyrights in the Best Buy MRI Works;

C. Permanently enjoining Schwartz from further and continuing use or distribution of Best Buy's trade secrets, including Best Buy's trade secrets in the MRI Toolset;

D. Permanently enjoining Schwartz from further and continuing interferences with Best Buy's contractual relations, including Best Buy's contracts relating to the MRI Toolset and Best Buy MRI Works; and,

E. Permanently enjoining Schwartz from further and continuing false advertisements claiming an association or affiliation with Best Buy or the Geek Squad, including falsely holding himself out as a former Geek Squad agent or employee.

(Report at 7–8.) To date, there have been no objections filed to the Report.

In reviewing a report and recommendation, a 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).

“To accept the report and recommendation of a magistrate, 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.”

Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Boyle's Report and finds it to be persuasive and without any legal or factual errors.

There being no objection to Judge Boyle's Report, it is hereby

ORDERED, that Judge Boyle's Report and Recommendation is adopted in its entirety. The Court: (1) grants the Defendant's motion for a default judgment; (2) awards the Plaintiffs injunctive relief preventing the Defendant from engaging in any further infringing conduct, as set forth supra; and (3) awards the Plaintiff attorneys fees in the amount of \$17,640.00 and costs in the amount of \$2,161.62 for a total monetary award of \$19,801.62, and it is further

ORDERED, that the Clerk of the Court is directed to enter judgment in favor of the Plaintiffs as set forth above, and it is further

ORDERED, that the Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
January 6, 2012

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge