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DOC #:
DATE FILED: November 24, 2009

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
KENNETH HINTON,

Plaintiff,

- v. -

MONSTER WORLDWIDE, INC.

Defendant.
-----X

09 Civ. 2629 (PAC) (RLE)

ORDER

HONORABLE PAUL A. CROTTY, United States District Judge:

On March 23, 2009, pro se Plaintiff Kenneth Hinton (“Hinton”) commenced this action against Defendant Monster Worldwide, Inc. (“Monster”) for breach of contract, negligence, and violations of New York’s Consumer Fraud Act. Hinton alleged that his personal information and data were compromised in 2007 when unauthorized persons hacked into Monster’s computer network and gained access to personal and financial information of Monster’s consumers.

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On August 25, 2009, Monster filed a motion to dismiss the complaint pursuant to Fed.R.Civ.P. 12(b)(6). Hinton failed to respond to Monster’s motion. Instead, on September 4, 2009, Hinton filed his own motion to dismiss the complaint without prejudice. On September 17, 2009, Hinton failed to appear for a scheduled conference before Magistrate Judge Ronald L. Ellis. At that conference, Monster agreed to dismissal of his complaint without prejudice.

On October 26, 2009, Magistrate Judge Ellis issued a Report & Recommendation (“R&R”) recommending that the Court: (i) grant Hinton’s motion to dismiss without prejudice pursuant to Fed.R.Civ.P. 41(a)(2); and (ii) deny Monster’s motion to dismiss as moot. (R&R at 5).

Pursuant to Fed.R.Civ.P. 72, Magistrate Judge Ellis advised the parties that: "Failure to file timely objections shall constitute a waiver of those objections in the District Court and on latter appeal to the United States Court of Appeals." (R&R at 6). Neither party has filed objections. "To accept the report and recommendations 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).

Upon review, the Court finds no clear error in Magistrate Judge Ellis's R&R. Accordingly, the Court adopts the R&R in its entirety and GRANTS Hinton's motion to dismiss without prejudice. The Court also DENIES Monster's motion to dismiss as moot. Finally, the Court adopts Magistrate Judge Ellis's recommendation that if Hinton reinitiates this action, he must respond to Monster's motion to dismiss before further action is taken. The Clerk of the Court is directed to close this matter. Pursuant to 28 U.S.C 1915(a), I find that any appeal from this order would not be taken in good faith.

Dated: New York, New York
November 24, 2009

SO ORDERED



PAUL A. CROTTY
United States District Judge

Copies to: Honorable Ronald L. Ellis
United States Magistrate Judge

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