



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ADAM ROMANOWICZ,

Plaintiff,

-v-

ALISTER & PAINE, INC.,

Defendant.
-----X

17 Civ. 8937 (PAE) (KHP)

OPINION & ORDER

PAUL A. ENGELMAYER, District Judge:

Before the Court is the August 3, 2018 Report and Recommendation of Magistrate Judge Katharine H. Parker, recommending that the Court grant plaintiff Adam Romanowicz \$2,980 in damages, \$3,500 in attorneys’ fees, and \$519 in costs. Dkt. 27 (the “Report”). For the following reasons, the Court adopts the Report in full.

I. Background

On November 15, 2017, plaintiff filed a complaint against defendant Alister & Paine, Inc., alleging copyright infringement under the Copyright Act, 17 U.S.C. §§ 106, 501, and falsification, removal, and/or alteration of copyright management information under the Digital Millennium Copyright Act, 17 U.S.C. § 1202 (the “DMCA”). Defendant was served on December 1, 2017. *See* Dkt. 5. Defendant never filed an answer or otherwise appeared in this action.

On March 1, 2018, plaintiff obtained a clerk’s certificate of default, Dkt. 12, and on March 8, 2018, plaintiff filed a motion for default judgment, Dkt. 13. On April 25, 2018, the Court conducted a default hearing. *See* Dkt. 18. On the record of that conference, the Court

entered default judgment in plaintiff's favor. *See id.* On the same date, the Court referred the case to Judge Parker for an inquest into damages. *See* Dkt. 17.

On August 3, 2018, Judge Parker issued the Report currently under review. The Report recommended awarding plaintiff \$480 in actual damages under the Copyright Act, and \$2,500 in statutory damages under the DMCA. *See* Report at 6–11. In addition, the Report recommended awarding plaintiff's counsel \$3,500 in fees and \$519 in costs. *See id.* at 11–15.

The deadline for parties to file objections to the Report was August 17, 2018. *See* Dkt. 27. To date, no objections have been filed.

II. Discussion

In reviewing a Report and Recommendation, a district 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 those portions of the report 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.” *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950 (KPF) (RLE), 2014 WL 4635575, at *2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC) (AJP), 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009), *aff'd* 453 Fed. App'x 88 (2d Cir. 2011)); *see also, e.g., Mims v. Walsh*, No. 04 Civ. 6133 (BSJ) (FM), 2012 WL 6699070, at *2 (S.D.N.Y. Dec. 23, 2012) (quoting *Edwards v. Fischer*, 414 F. Supp. 2d 342, 346–47 (S.D.N.Y. 2006)).

Because neither party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Parker's thorough and well-reasoned Report reveals no facial error in its conclusions. The Report is therefore adopted in its entirety.

In addition, the Report expressly states that “failure to file . . . timely objections will result in a waiver of those objections for purposes of appeal.” Report at 26. Accordingly, each

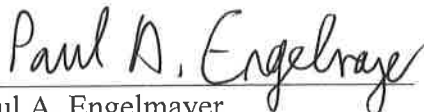
party's failure to object to the Report operates as a waiver of appellate review. *See Monroe v. Hyundai of Manhattan & Westchester*, 372 F. App'x 147, 147–48 (2d Cir. 2010) (summary order) (quoting *Caidor v. Onondaga Cnty.*, 517 F.3d 601, 604 (2d Cir. 2008); *Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir. 1992)).

CONCLUSION

For the reasons stated herein, the Court adopts the Report in full. Plaintiff is hereby awarded \$2,980 in statutory damages, \$3,500 in attorneys' fees, and \$519 in costs.

The Clerk of Court is respectfully directed to terminate all pending motions, and to close this case.

SO ORDERED.


Paul A. Engelmayer
United States District Judge

Dated: September 28, 2018
New York, New York