IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PENDLETON DIVISION

JONATHON CLARKE,

No. 2:15-cy-01271-SU

Plaintiff,

OPINION AND ORDER

v.

ALJEX SOFTWARE INC.,

Defendant.

MOSMAN, J.,

On December 1, 2015, Magistrate Judge Patricia Sullivan issued her Findings and Recommendation (F&R) [24], recommending that Defendant's Motion to Dismiss for Failure to State a Claim, Motion to Dismiss for Lack of Jurisdiction, and Motion to Transfer Venue to New Jersey [14] should be DENIED. Judge Sullivan also recommended that Plaintiff's Motion to Transfer Venue to Idaho [12] should be GRANTED. No objections to the Findings and Recommendation were filed. I agree with Judge Sullivan's recommendation and I ADOPT the F&R [24] as my own opinion. While not specifically addressed in the F&R, I also conclude that Defendant's first Motion to Dismiss for Failure to State a Claim, Motion to Dismiss for Lack of Jurisdiction, and Motion to Transfer Venue [9] is DENIED.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge,

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but retains responsibility for making the final determination. The court is generally required to

make a de novo determination regarding those portions of the report or specified findings or

recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court

is not required to review, de novo or under any other standard, the factual or legal conclusions of

the magistrate judge as to those portions of the F&R to which no objections are addressed. See

Thomas v. Arn, 474 U.S. 140, 149 (1985); United States v. Reyna-Tapia, 328 F.3d 1114, 1121

(9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R

depends on whether or not objections have been filed, in either case, I am free to accept, reject,

or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Sullivan's recommendation, and I ADOPT the F&R

[24] as my own opinion. I also conclude that Defendant's first Motion to Dismiss for Lack of

Jurisdiction and Motion to Transfer Venue [9] is DENIED.

IT IS SO ORDERED.

DATED this <u>21st</u> day of December, 2015.

/s/ Michael W. Mosman

MICHAEL W. MOSMAN

United States District Judge

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