IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
District Judge Gordon P. Gallagher

Civil Action No. 24-cv-03101-GPG-STV

NINTENDO OF AMERICA, INC,

Plaintiff,

v.

JESSE KEIGHIN,

Defendant.

ORDER

Before the Court is the Recommendation of [Chief] United States Magistrate Judge Scott T. Varholak (D. 36). The matter came before Judge Varholak on Plaintiff's Motion for Default Judgment (the Motion) (D. 33) which was referred to him at D. 35. Judge Varholak recommended that the Motion be GRANTED IN PART and DENIED IN PART. For the following reasons, the Court AFFIRMS and ADOPTS the Recommendation.

The parties were advised that they had fourteen days, after being served with a copy of the Recommendation, to file written objections in order to obtain reconsideration by the District Judge assigned to the case. *See* Fed. R. Civ. P. 72(b). No party has filed an objection to Judge Varholak's Recommendation.

Under 28 U.S.C. § 636(b)(1)(B), this Court may designate a magistrate judge to consider dispositive motions and submit recommendations to the Court. Fourteen days after issuance of a

recommendation, the Court must "determine de novo any part of the magistrate judge's [recommended] disposition that has been properly objected to." Fed. R. Civ. P. 72(b)(3). A party's failure to file such written objections may bar the party from a de novo determination by the District Judge of the proposed findings and recommendations. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). When this occurs, the District Judge is "accorded considerable discretion" and may review a magistrate judge's report under any standard it deems appropriate. *Summers v. State of Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) (citing *Thomas*, 474 U.S. at 150).

After reviewing all the relevant pleadings, the Court concludes that Judge Varholak's analysis was thorough and comprehensive, the Recommendation is well-reasoned, and the Court finds no clear error on the face of the record. Accordingly, the Court AFFIRMS and ADOPTS the Recommendation (D. 36) as an Order of this Court.

Plaintiff's Motion for Default Judgment [#33] is **GRANTED IN PART** and **DENIED IN PART**. Specifically, the Court ORDERS that default judgment shall enter in favor of Plaintiff and against Defendant; (1) Plaintiff be awarded statutory damages in the amount $17,500; and (2) the Court issues an injunction preventing Defendant from infringing Nintendo's copyrighted works, including by streaming, and from trafficking in Switch emulators, Nintendo's proprietary cryptographic keys, or other software or technologies that circumvent Nintendo's technological protective measures. The Court further Orders that, by November 13, 2025, the Plaintiff shall file a Status Report with the Court regarding its next steps.

DATED October 29, 2025.

BY THE COURT:



Gordon P. Gallagher
United States District Judge