

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

FRANK GENER-VILLAR D/B/A/  
GENER ADVERTISING,

**Plaintiff**

**v.**

ADCOM GROUP, INC., et al.,

**Defendants**

**CIVIL NO. 03-1306 (FAB)**

**MEMORANDUM AND ORDER**

BESOSA, District Judge.

A District Court may refer pending dispositive motions to a Magistrate Judge for a report and recommendation. See 28 U.S.C. §636(b)(1)(B); Fed. R. Civ. P. 72(b); Loc. Rule 72(a). Any party adversely affected by the report and recommendation may file written objections within ten days of being served with the Magistrate Judge's report. See 28 U.S.C. §636(b)(1). A party that files a timely objection is entitled to a *de novo* determination of "those portions of the report or specified proposed findings or recommendations to which specific objection is made." Sylva v. Culebra Dive Shop, 389 F. Supp.2d 189, 191-92 (D.P.R. 2005) (citing United States v. Raddatz, 447 U.S. 667, 673 (1980)). Failure to comply with this rule precludes further review. See Davet v. Maccorone, 973 F.2d 22, 30-31 (1st Cir. 1992). In conducting its review, the Court is free to "accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate

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Judge." 28 U.S.C. §636 (a)(b)(1). Templeman v. Cris Craft Corp., 770 F.2d 245, 247 (1st Cir. 1985); Alamo Rodriguez v. Pfizer Pharmaceuticals, Inc., 286 F.Supp.2d 144, 146 (D.P.R. 2003). Furthermore, the Court may accept those parts of the report and recommendation to which the parties do not object. See Hernandez-Mejias v. General Elec., 428 F.Supp.2d 4, 6 (D.P.R. 2005) (citing Lacedra v. Donald W. Wyatt Detention Facility, 334 F. Supp.2d 114,125-126 (D.R.I. 2004)).

On August 9, 2007, the United States Magistrate Judge issued a Report and Recommendation, recommending that the Defendant **Supermercado Mr. Special's** Motion for Partial Summary Judgment (Docket No. 87) be denied. (See Docket No. 99)

On August 13, 2007, defendant **Adcom Group, Inc.** ("ADCOM") filed an "Objection to Magistrate's Report and Recommendation". (Docket No. 100).<sup>1</sup> The only "objection" raised by ADCOM, pertaining to Mr. Special's Motion for Partial Summary Judgment<sup>2</sup>, is a statement included by the Magistrate Judge on page 2 of the Report and Recommendation, regarding the copyright holder of the

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<sup>1</sup> On August 15, 2007, Supermercados Mr. Special filed a "Motion adopting Adcom Group Inc. objection to the Magistrates [sic] Report and Recommendation" (Docket No. 102). Its Motion is hereby **NOTED and GRANTED**.

<sup>2</sup> As part of its "Objection to Magistrate's Report and Recommendation", ADCOM also reminded the Court of the reasons why **its** Motion for Summary Judgment (Docket No. 57) should be granted. ADCOM's position was fully briefed and discussed in its Motion for Summary Judgment and need not have been repeated in an objection.

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works here at issue.<sup>3</sup> It is ADCOM's contention that "the statement gives the impression that the Court of Appeals made such a finding or reached such a legal conclusion." (Docket No. 100, p. 1) No further objections were made.

Having considered ADCOM's objections, and after an independent examination of the record in this case, the Court **ADOPTS** the magistrate judge's findings and recommendations except that the Court **DOES NOT ADOPT** the statement on page 2 of the R&R to which ADCOM objected.

Accordingly, defendant Mr. Special's Motion for Partial Summary Judgment (Docket No. 87) is hereby **DENIED**.

The case is once again referred to Magistrate Judge Velez-Rive for all remaining pretrial matters. The parties should seriously consider consenting to have Magistrate Judge Velez conduct any and all remaining proceedings in this case, including the trial, order the entry of a final judgment and conduct all post-judgment proceedings.

**IT IS SO ORDERED.**

San Juan, Puerto Rico, August 24, 2007.

s/ Francisco A. Besosa  
FRANCISCO A. BESOSA  
UNITED STATES DISTRICT JUDGE

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<sup>3</sup> Specifically, the statement included at page 2 of the R&R that states "Gener in consequence is the copyright holder of the works and may enforce his rights against all unauthorized users."