

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

NATIONAL BUSINESS FORMS & §
PRINTING, INC., d/b/a §
GRAPHXONLINE.COM, §

Plaintiff, §

v. §

FORD MOTOR COMPANY, §

Defendant. §

CIVIL ACTION NO. H-08-1906

FORD MOTOR COMPANY, §

Counterclaimant, §

v. §

NATIONAL BUSINESS FORMS & §
PRINTING, INC., d/b/a §
GRAPHXONLINE.COM and §
QUICKSTICKERS.COM, and §
GEORGE H. ATKINSON, III, §

Counterclaim §
Defendants. §

MEMORANDUM ON ENTRY OF AMENDED FINAL JUDGMENT

The United States Court of Appeals for the Fifth Circuit affirmed in part and reversed in part the Final Judgment entered in this case on December 21, 2009, and in its mandate remanded the case to this Court for further proceedings in accordance with the Opinion of the Court of Appeals. See Nat'l Business Forms & Printing, Inc. v. Ford Motor Co., 671 F.3d 526 (5th Cir. 2012).

This Court conducted a telephone conference with counsel for the parties, and all parties are agreed that no further proceedings are required except for this Court to enter an Amended Final Judgment that conforms to the Opinion of the Court of Appeals. The parties have also provided to the Court their own submissions as to how the Amended Final Judgment should be written.


The Court has considered the submissions of the parties, and finds that NBFP proposes a substantial modification of the injunctive relief ordered by this Court when it granted in part Ford's Motion for Summary Judgment. The Court of Appeals expressly affirmed the partial summary judgment granted to Ford, which included the injunctive language that was carried forward into the Final Judgment. That is the law of the case. See Medical Center Pharmacy v. Holder, 634 F.3d 830, 834 (5th Cir. 2011). Accordingly, this Court may not re-examine or change the injunctive language.

NBFP argues that the injunctive language, however, conflicts with those portions of the case that were adjudged in favor of NBFP. The Court finds that this can be clarified by language excluding from the injunctive order NBFP's commercial printing and sales activity that the Court of Appeals found does not pose a threat of consumer confusion nor amount to trademark infringement. Accordingly, the undersigned judge is separately signing this day

an Amended Final Judgment that conforms to the Opinion and Judgment of the United States Court of Appeals.

The Clerk will enter this Memorandum, providing a correct copy to all parties of record.

SIGNED at Houston, Texas, on this 12TH day of April, 2012.


EWING WERLEIN, JR.
UNITED STATES DISTRICT JUDGE