

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

XTREME DIESEL
PERFORMANCE, LLC,

Plaintiff,

v.

Case No. 5:16-cv-633-Oc-32PRL

XTREME DIESEL
PERFORMANCE, LLC,

Defendant.

ORDER

This case is before the Court on the Plaintiff Xtreme Diesel Performance, LLC's Motion to Enforce Judgment and For Amended Findings and Judgment (Doc. 20). On June 20, 2017, the assigned United States Magistrate Judge issued a Report and Recommendation (Doc. 25) recommending that the motion be granted in part and denied in part as follows: Defendant Xtreme Diesel Performance, LLC should be held in contempt of Court for its failure to comply with the Court's March 2, 2017 Final Judgment and Permanent Injunction; Plaintiff should be directed to serve a copy of the Order on Defendant and promptly file proof of service; Defendant should be given 20 days from the date of service of the Order to transfer and assign to Plaintiff the domain name

“xdpllc.com,” and file the necessary documents with the Florida Division of Corporations so that it is no longer registered as Xtreme Diesel Performance, LLC (or any entity with Plaintiff’s trademarks in its name), and cease and desist from using Plaintiff’s federally registered trademarks; if Defendant has not complied within 20 days of service of the Order, the Court should impose a daily monetary fine until Defendant complies with the Court’s March 2, 2017 Final Judgment and Permanent Injunction and the Court’s Order finding Defendant in contempt, and appoint a third party to file the necessary documents to transfer and assign the domain name “xdpllc.com” to Plaintiff, at the expense of Defendant; and Plaintiff’s request to alter or amend findings or judgment should be denied.

No party has filed an objection to the Report and Recommendation, and the time in which to do so has passed. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); M.D. Fla. R. 6.02(a).

Upon de novo review and for the reasons stated in the Report and Recommendation (Doc. 25), it is hereby

ORDERED:

1. The Report and Recommendation of the Magistrate Judge (Doc. 25) is **ADOPTED** to the extent stated in this Order.

2. Plaintiff Xtreme Diesel Performance, LLC's Motion to Enforce Judgment and For Amended Findings and Judgment (Doc. 20) is **GRANTED IN PART DENIED IN PART**.

3. Defendant Xtreme Diesel Performance, LLC is in contempt of Court for its failure to comply with the Court's March 2, 2017 Final Judgment and Permanent Injunction.

4. Plaintiff shall forthwith serve a copy of the Order on Defendant and promptly file proof of service.

5. No later than September 12, 2017, Defendant shall:

a. transfer and assign to Plaintiff the domain name "xdpllc.com;" and

b. file the necessary documents with the Florida Division of Corporations so that it is no longer registered as Xtreme Diesel Performance, LLC (or any entity with Plaintiff's trademarks in its name); and

c. cease and desist from using Plaintiff's federally registered trademarks.

6. If Defendant has not complied by September 12, 2017, the Court shall:

a. Conduct such further proceedings as are necessary to achieve compliance, including monetary fines and compelling the

officers of Defendant to appear in Court to explain themselves; and

- b. Appoint a third party to file the necessary documents to transfer and assign the domain name and “xdpllc.com” to Plaintiff at the expense of Defendant. Plaintiff must propose the identity of the third party.

7. Plaintiff’s request to alter or amend findings or judgment is

DENIED.

DONE AND ORDERED in Jacksonville, Florida the 1st day of August, 2017.



TIMOTHY J. CORRIGAN
United States District Judge

sj
Copies to:

Honorable Philip R. Lammens
United States Magistrate Judge

Counsel of record

Xtreme Diesel Performance, LLC
3621 NE 36th Ave.
Ocala, FL 34479