

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 08-80054-CIV-MIDDLEBROOKS/JOHNSON

KIRBY MORGAN DIVE SYSTEMS, INC.,
a California corporation,
Plaintiff,

v.

MICHAEL CARSON, an individual,
CARSON DIVE SYSTEMS, an unknown business entity,
and DOES 1 THROUGH 20, inclusive,
Defendants.

**CLOSED
CIVIL
CASE**

FINAL JUDGMENT

THIS CAUSE comes before the Court upon a March 6, 2009, hearing for damages in the above-captioned matter. Judgments by default previously were entered against Defendants (DE 31 and DE 41). The Court is fully advised in the premises, having carefully reviewed the record and considered the evidence presented at the March 6th hearing.

Accordingly, it is

ORDERED AND ADJUDGED that Final Judgment is entered in favor of Plaintiff and against Defendants. Pursuant to the Lanham and Copyright Acts,¹ a permanent injunction is hereby issued with the following conditions:

Defendants, their agents, employees, related companies, successors and assigns, and all persons acting in concert, participation or combination are permanently enjoined from:

(A) using Kirby Morgan's trademarks, trade dress, or patents including but not limited to the Kirby Morgan trademark or trade dress or patented design in any manner whatsoever, and from using any mark or name confusingly similar thereto or using any colorable imitation of the Kirby Morgan trademarks or trade dress;

¹ Specifically pursuant to 15 U.S.C. § 1116 and 17 U.S.C. § 502.

(B) manufacturing, distributing, selling, or offering for sale any product bearing Kirby Morgan's trademarks or trade dress, including but not limited to the Kirby Morgan trademark or trade dress, itself or through a third party; or manufacturing, distributing, selling or offering for sale any product using any mark or name confusingly similar thereto or any colorable imitation of the Kirby Morgan trademarks or trade dress; and

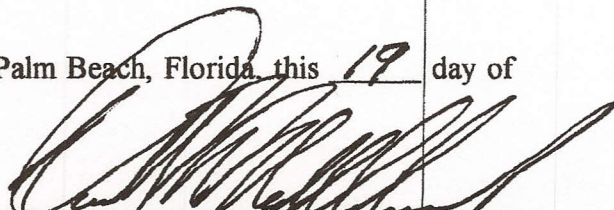
(C) manufacturing, distributing, selling, or offering for sale the unauthorized Kirby Morgan commercial dive equipment or parts that are the subject of this lawsuit, either by word of mouth, print or television advertising, or Internet- or web-based advertising.

This injunction shall be binding upon Individual Defendant Michael Carson, Corporate Defendant Carson Dive Systems, Inc., and Corporate Defendant's agents, officers, directors, partners, shareholders, servants, employees, attorneys, representatives, successors and assigns, and all other persons and entities in active concert or participation with them.

It is **FURTHER ORDERED AND ADJUDGED** that Defendants shall recall from any and all channels of distribution all products incorporating Kirby Morgan's trademarks, trade dress, or patents, including but not limited to the Kirby Morgan trademark or trade dress or patents, or any colorable imitation of the Kirby Morgan trademarks, trade dress, or patents that is likely to cause confusion, mistake, or deception, or dilute or impair the distinctive quality of the Kirby Morgan trademarks, alone or in combination with other words or symbols, including corrective advertising.

It is **FURTHER ORDERED AND ADJUDGED** that Plaintiff shall have and recover from Defendants, jointly and severally: (1) damages in the amount of \$750.00; (2) \$840.00 in previously awarded sanctions, and (3) \$36,294.00 in attorneys' fees, for a total sum of \$37,884.00. The Clerk of the Court shall **CLOSE** this case.

DONE AND ORDERED in Chambers at West Palm Beach, Florida, this 19 day of March, 2009.


DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

Copies to: counsel of record;
pro se Defendant;
Corporate Defendant.