

ESTTA Tracking number: **ESTTA560835**

Filing date: **09/23/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92050302
Party	Defendant Invisible Fence, Inc.
Correspondence Address	R BRADFORD BRITTIAN MERCHANT & GOULD PC 110 TYSON BLVD STE 203 ALCOA, TN 37701-4111 UNITED STATES bbrittian@merchantgould.com, akreis@merchantgould.com, ldale@pitts-brittian.com, mfee@merchantgould.com
Submission	Other Motions/Papers
Filer's Name	R. Bradford Brittian
Filer's e-mail	bbrittian@merchantgould.com, imcfarland@merchantgould.com, mfee@merchantgould.com
Signature	/R. Bradford Brittian/
Date	09/23/2013
Attachments	09-23-2013 TTAB Status Report.pdf(98323 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

FIDO'S FENCES, INC.)	
Petitioner,)	Cancellation No. 92050302 (Parent)
)	92050322
v.)	92050306
)	
INVISIBLE FENCE, INC.)	
Respondent)	
)	
)	

Commissioner for Trademarks
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

REPORT OF STATUS OF CIVIL LITIGATION

In an Order dated September 6, 2013, the Trademark Trial and Appeal Board ordered that the Parties hereto have thirty (30) days from the mailing date of the Order to inform the Board of the status of the civil actions which occasioned the suspension of these consolidated Cancellation Proceedings. These consolidated proceedings were suspended pending the final disposition of two (2) civil actions, namely Civil Action No. 2:08-CV-754 styled *Fido's Fences, Inc. v. The Canine Fence Company*, filed in the United States District Court for the Eastern District of New York and Civil Action No. 3:09-CV-00025 styled *Invisible Fence, Inc. v. Fido's Fences, Inc.*, filed in the United States District Court for the Eastern District of Tennessee. In accordance with the Board's Order, the Parties provide the following report regarding the status of the civil actions.

Civil Action No. 2:08-CV-754 (Eastern District of New York)

As previously reported to the Board, the litigation in the Eastern District of New York between Fido's Fences, Inc. and The Canine Fence Company was settled, and the case was dismissed with prejudice.

Civil Action No. 3:09-CV-00025 (Eastern District of Tennessee)

The litigation in the Eastern District of Tennessee between Fido's Fences, Inc. and Invisible Fence, Inc. was originally scheduled for trial commencing in November 2012. On March 21, 2012, however, the parties were ordered to mediation, and the case was administratively closed pending mediation. Mediation was held on July 24, 2012, but no resolution was reached. The Parties thereafter moved the Court to reinstate the case, and a trial was scheduled for September 10, 2013.

The judge presiding over the case retired at the end of July 2013. In light of that event, the Parties jointly moved the Court to suspend the scheduled trial date and the unexpired pretrial deadlines. That request was granted. The case was subsequently reassigned to the Honorable Curtis L. Collier, United States District Judge, for all further proceedings. Trial is scheduled to begin on February 10, 2014.

The disposition of the Eastern District of Tennessee litigation may be dispositive of, or have a significant bearing on, these consolidated Cancellation Proceedings. Accordingly, continuation of the stay of these Proceedings pending the final disposition of Civil Action No. 3:09-CV-00025 is warranted and the same is requested by the Parties.

Respectfully submitted this 23 day of September, 2013.

By: s/ R. Bradford Brittian
R. Bradford Brittian
MERCHANT & GOULD
9717 Cogdill Rd., Suite 101
Knoxville, TN 37932
Phone: (865) 380-5960
Fax: (865) 380-5999
bbrittian@merchantgould.com
ATTORNEYS FOR RESPONDENT

By: s/ Michael J. Bradford
Michael J. Bradford
LUEDEKA, NEELY GROUP, P.C.
P.O. Box 1871
1871 Riverview Tower
Knoxville, TN 37901
Phone: (865) 546-4305
Fax: (865) 523-4478
mbradford@LNG-patent.com
ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this REPORT OF STATUS OF CIVIL LITIGATION has been served upon Petitioner at the following addresses of record of Petitioner's counsel in this Proceeding by First Class Mail on the 23 day of September, 2013.

Michael J. Bradford
LUEDEKA, NEELY GROUP, P.C.
P.O. Box 1871
1871 Riverview Tower
Knoxville, TN 37901

s/ R. Bradford Brittan