

EXHIBIT D

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION

3 WEATHER UNDERGROUND,
4 INCORPORATED,

4 Plaintiff,

5 v

6 NAVIGATION CATALYST SYSTEMS,
7 INCORPORATED,

8 Defendant.
_____ /

Case No. 09-CV-10756
U.S. Magistrate Judge
Virginia M. Morgan
Detroit, Michigan
June 14, 2010
1:55 p.m.

9 Ordered By:

WILLIAM DELGADO, ESQ.

10 MOTION HEARING

11 APPEARANCES:

12 For the Plaintiff:

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23 Transcriber:

Deborah Kremlick

24 Proceedings recorded by electronic sound recording, transcript
25 produced by transcription service.

1 counter.

2 THE COURT: Okay. Anything you want to say?

3 MR. HALL: Yeah, just -- just briefly, Your Honor.

4 Again the only reason that Mr. Delgado is arguing that he's
5 different from -- from someone off the street is because he's
6 named in a complaint. But again they have made no use, they
7 have no bona fide intent to use. Most importantly there's no
8 domain name. They have given us that information right now.

9 THE COURT: And you're not suing them for anything
10 related to Weather Sticker.

11 MR. HALL: Correct, Your Honor.

12 THE COURT: If you did sue them or did try to use
13 that either as background or as a claim, my guess is it would
14 be subject to a motion in limine to exclude and would be
15 excluded. That being the case, I'm going to -- motion for
16 leave to file a counter claim which I respectfully deny.

17 I don't think that there has been commercial use of the
18 mark. I don't think that there is -- there is standing. I
19 think you have the option to go back to the trademark office.
20 I don't think that having it resolved in the Court is the way
21 that it's set up to be handled.

22 I think that -- I mean I appreciate your trying to
23 fulfill Congress' expectations, but I really think that what
24 they intended to do was to go to the administrative people
25 first and only -- and I think that that's -- I think that's