B&W wins permanent injunction in patent infringement lawsuit.

February 9, 2006

Banner & Witcoff is pleased to announce that it obtained a permanent injunction against further patent infringement today in *SunTiger, Inc. v. Sunglass Products of California d/b/a Zoom Eyeworks, Inc and Fisherman Eyewear*.

Sunglass Products sells sunglasses under the name “Fisherman Eyewear.” See http://www.fishermaneyewear.com. One of the lenses in the Fisherman Eyewear line of sunglasses is a type of lens that Sunglass Products calls “Low Light Amber.” Sunglass Products markets this Low Light Amber lens to fisherman and states that the lens is “excellent for low light conditions such as first and last light or heavily overcast days.”

SunTiger has multiple patents, including U.S. Pat. Nos. 5,177,509 and 5,400,175, that cover the technology used in Sunglass Product’s Low Light Amber lenses. This technology originated from the Jet Propulsion Laboratory (“JPL”), which is managed for the National Aeronautics and Space Administration (“NASA”) by the California Institute of Technology. JPL is the lead U.S. center for robotic exploration of the solar system. The patented technology protects human eyesight by blocking dangerous blue, violet, and ultraviolet light and allowing substantial transmission of wavelengths of light that are useful for visual acuity.

On January 11, 2006, the Court, a federal court in Los Angeles, granted summary judgment of infringement and held that the Fisherman Eyewear “Low Light Amber” lenses literally infringed SunTiger’s ‘509 and ‘175 Patents. A jury trial is scheduled for June 2006 in order to determine the extent of SunTiger’s damages and to establish whether Sunglass Products’ infringement was willful.

On February 8, 2006, the Court granted a motion brought by Banner & Witcoff and permanently enjoined “Defendant and its officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with any of the foregoing who receive actual notice of the

order by personal service or otherwise from making, using, selling, offering for sale or importing into the United States lenses (or sunglasses containing lenses) that contain the features of claim 1 of U.S. Patent No. 5,177,509 or claim 1 of U.S. Patent No. 5,400,175 including but not limited to Low Light Amber lenses (which, according to Defendant, it identifies internally as #14 (3860 – 14 Fly), #16 (6206 – 16 Fly), and #18 (CE – 18 CTC)) having the spectral characteristics as set forth in the Summary Judgment papers and all other lenses (or sunglasses containing lenses) that are merely colorable changes of the Low Light Amber lenses or of claim 1 of U.S. Patent No. 5,177,509 or claim 1 of U.S. Patent No. 5,400,175."

The legal team on this case representing SunTiger was Timothy C. Meece of Banner & Witcoff, Ltd. and Larry A. Sackey of the Law Offices of Larry A. Sackey.

Banner & Witcoff's representation of SunTiger in enforcement of these patents dates to 1997, when Banner & Witcoff lawyers obtained a multimillion dollar jury verdict and finding of willfulness that was affirmed by the U.S. Court of Appeals for the Federal Circuit.

Posted: February 9, 2006