B&W wins summary judgment striking down affirmative defenses in patent case.

April 24, 2006

Banner & Witcoff is pleased to announce that it prevailed today on a motion for summary judgment in the patent case of *SunTiger, Inc. v. Sunglass Products of California d/b/a Zoom Eyeworks, Inc and Fisherman Eyewear*.

On March 24, 2006, the Court—a federal court in Los Angles—ruled on summary judgment in favor of Banner & Witcoff's client, SunTiger, and struck down Sunglass Products' affirmative defenses of (a) failure to mark, (b) prosecution history estoppel, (c) inequitable conduct, (d) unclean hands, (e) patent misuse, (f) laches, and (g) equitable estoppel.

Previously in this case, the Court granted summary judgment of infringement and held that the Fisherman Eyewear "Low Light Amber" lenses literally infringed SunTiger's U.S. Pat. Nos. 5,177,509 and 5,400,175. Shortly thereafter, the Court held that SunTiger's patents were valid and enforceable, and entered a permanent injunction.

A jury trial is scheduled for September 2006 in order to determine the extent of SunTiger's damages and to establish whether Sunglass Products' infringement was willful.

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.

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