Banner & Witcoff client LMK Technologies, LLC defeats pair of “second bite at the apple” IPR petitions

On August 24, 2015, the U.S. Patent and Trademark Office’s Patent Trial and Appeal Board ruled in favor of firm client LMK Technologies, LLC, declining institution of inter partes reviews on two petitions filed by BLD Services, LLC. The decisions issued in IPR2015-00723 (Paper 7) and IPR2015-00721 (Paper 9).

The LMK patents at issue pertain to trenchless sewer pipe rehabilitation, particularly cured in place pipelining (CIPP), and are the subject of pending district court litigation. BLD previously unsuccessfully challenged the same claims with earlier IPR petitions.

“This is a well-deserved victory for LMK,” said Banner & Witcoff attorney Christopher L. McKee. “The PTAB properly exercised its discretion to shut down BLD’s duplicative second attempts to challenge claims of LMK’s patents.”

Mr. McKee added: “These cases illustrate how a patent owner’s preliminary response focused on select issues can be effective to avoid institution of an IPR trial.”

LMK is represented in these matters by Banner & Witcoff attorney Christopher L. McKee, and by Jeffrey D. Harty of Nyemaster Goode, P.C., counsel for the district court litigation.

Posted: August 26, 2015