B&W defeats summary judgment of patent unenforceability.

November 14, 2005

Banner & Witcoff is pleased to announce that its legal team of Jon Nelson and Robert Resis, on behalf of the Plaintiffs, successfully defeated a summary judgment motion of patent unenforceability in *Ropak Corp., et al v. Plastican Inc.* Plaintiffs Jon von Holdt, Jr. and Janice Anderson own U.S. Patent No. 4,735,337, entitled "Plastic Lid Having Opening Means," and Plaintiff Ropak is a licensee of the patent. The patented plastic lid is created using a mold made, sold, and distributed by a licensee of the patent Plas-Tool Co. Defendant Plastican contended that Plaintiffs' attempt to claim damages for non-patented goods (the molds used to make the plastic lids) constitutes patent misuse and thus, renders Plaintiffs' patent unenforceable.

On November 14, 2005, the federal court in Chicago denied Defendant's summary judgment motion. In doing so, the Court noted that 35 U.S.C. 271(d) "protects the very activity in which Plaintiffs are engaged." The legal team on this case representing the Plaintiffs includes Banner & Witcoff attorneys Jon Nelson and Robert Resis, as well as attorneys from Jenner & Block and Paul, Hastings, Janofsky & Walker LLP.

Posted: November 14, 2005