Banner & Witcoff Wins Early Dismissal of Patent Infringement Claims for Lexmark

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On May 15, 2012, Banner & Witcoff won dismissal for Lexmark International, Inc. of all claims for alleged patent infringement. The case, Ingeniador LLC v. Alfresco Software Inc. et al., No. 3:11-cv-01840 (District of Puerto Rico), included allegations that Lexmark and 15 other defendants each sold products that allegedly infringed U.S. Patent Number 6,990,629, entitled “Publishing System for Intranet.” Plaintiff’s complaint included allegations for direct, indirect, and contributory infringement against Lexmark associated with its Perceptive Software’s ImageNow content management software.

In granting the motion to dismiss all infringement claims against Lexmark, the Court held that plaintiff’s infringement allegations “do not state sufficient facts to raise its right to these claims beyond the speculative level,” and therefore, do not meet the heightened pleading standards mandated by Twombly and Iqbal. The Court stated that Ingeniador’s allegation in its complaint that “Lexmark sells and offers for sale a platform which creates, edits, and maintains documents over a network (e.g., Perceptive Software’s ImageNow), in accordance with one or more claims of the ‘629 patent” amounts to nothing more than a legal conclusion and should not be considered a factual statement. Further, the plaintiff did not state sufficient facts to raise any right to an infringement claim beyond the speculative level and failed to even identify which claim(s) of the ‘629 patent Lexmark allegedly had infringed. Thus, the Court held that “[s]uch pleading is the essence of conclusory legal statements” and therefore dismissed the complaint under Fed. R. Civ. P. 12(b)(6).

Please click here to view the full opinion and order granting the motion to dismiss.

Lexmark was represented by Banner & Witcoff’s Chicago-based attorneys Timothy C. Meece, Bryan Medlock, and Jason S. Shull.

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