EXPERT TESTIMONY PROFESSIONALS

We are known for our “teaching” - as opposed to “telling” - style of testimony. Rather than only providing a judge or jury with an opinion, we communicate the key facts and relevant theories in a clear and logical manner.

Our Financial Testimony professionals have industry-leading experience across all types of disputes and are particularly skilled in the determination of damages involving intellectual property. Our top testifying experts average over 30 years of intellectual property litigation analysis experience, benefitting clients when considering the complex financial data, qualitative facts, supporting testimony, and damages-related case law. We strive to develop a focused approach to every assignment. Our experts have testified regarding virtually all damage elements, including lost profits, reasonable royalties, unjust enrichment, price erosion and suppression, accelerated market entry, corrective advertising, and future lost profits.
ANDREW W. CARTER
Managing Director of the Expert Services practice group, Board of Managers, and one of the founding partners of Ocean Tomo.

For more than 20 years Mr. Carter has focused on intellectual property infringement damages, providing expert witness testimony in excess of 70 times. He is frequently called upon to testify in large scale or complex cases, and was the damages expert for the largest patent damages award in history ($2.5 billion). Mr. Carter has testified in both Federal and State courts, as well as in front of the International Trade Commission. His testimony in court covers some of the most popular patent infringement forums in the country, including ED Texas, Delaware, SD New York, ND California, New Jersey, WD Wisconsin, and MD Florida. His clients cover a wide variety of industries, including industrial products, industrial machinery, numerous consumer products, electronics, telecommunications, transportation, internet services, medical devices, pharmaceuticals, financial services, securities, casinos/gaming, and entertainment.

CATE ELSTEN
Senior Managing Director in the firm’s west coast Expert Testimony practice. She is an accounting, marketing and finance professional with over 35 years of experience.

Ms. Elsten has been an intellectual property consultant for over 25 years, providing expert testimony on monetary damages, marketing and industry trends, licensing and management practices, corporate and intellectual asset valuations and plans of reorganization in over 70 matters in all nine federal districts, as well as several state and county courts. She also serves as a strategic and valuation consultant and as an AAA arbitrator. Prior to becoming a consultant, Ms. Elsten worked for over 12 years in industry, holding financial, accounting and marketing management positions for companies including Dayton-Hudson Corporation’s Target Stores Division, Aveda Corporation (now a division of Estéé Lauder) and others.

ROBERT M. HESS
Managing Director in the firm’s Expert Testimony practice, Chief Financial Officer and one of the founding members of Ocean Tomo.

His consulting efforts at Ocean Tomo are concentrated in the areas of damages expert witness testimony in intellectual property infringement lawsuits and general business disputes. He has assisted counsel with respect to all litigation phases through trial including discovery and document management, deposition and cross-examination assistance, and trial testimony and exhibit preparation. For more than 20 years Mr. Hess has consulted in the determination of both liability and damages issues arising from cases of patent infringement, breach of contract, reasonable royalty, misappropriation of trade secrets, price erosion, lost profits, trademark infringement, accountant’s liability and antitrust claims. Mr. Hess has testified in both Federal and State courts.

RICHARD LETTIERE
Managing Director in Ocean Tomo’s Chicago office.

Mr. Lettiere has expertise in all realms of intellectual property litigation and valuation. During his career, he has managed over 100 intellectual property matters, and has particular expertise in patent damages in the telecom industry. He has also performed enterprise level and intellectual property specific valuations in many industries, including telecom, energy, and commercial glass.

JUSTIN LEWIS
Managing Director and IP Damages Testifying Expert in Ocean Tomo’s Chicago San Francisco office.

Justin Lewis is an experienced expert who has testified in both Federal and State court. Mr. Lewis’ 20 years of consulting experience include the analysis and quantification of economic damages arising from patent, trademark, trade secrets, copyright infringement & breach of contract in over a 100 matters. Mr. Lewis holds a B.S. in Business and Economics and is a Certified Public Accountant in California and Certified Valuation Analyst. He is Chair of the Valuation and Pricing Committee of the Licensing Executives Society USA & Canada. His credentials and experience give him a broad base to understand all aspects of IP value. His industry experience is wide, covering computer hardware and software, semiconductors, fiber optics, telecommunications, biotechnology, diet supplements, gaming, retail, entertainment, wine, automotive and manufacturing.
JAMES E. MALACKOWSKI
Chairman and Chief Executive Officer of Ocean Tomo, LLC.
Mr. Malackowski has testified by deposition in more than 100 matters, the large majority of which are intellectual property disputes. On more than 50 occasions, Mr. Malackowski has served as an expert in Federal Court or the International Trade Commission on questions relating to intellectual property economics, including the subject of business valuation, reasonable royalty, lost profits, price erosion, commercial success, corrective advertising, Hatch-Waxman Act market exclusivity and the equities of a potential injunction. Mr. Malackowski brings a truly unique experience base to his work as an expert drawing upon his role as a Certified Public Accountant, Certified Licensing Professional, adjunct MBA instructor, inventor of numerous issued U.S. patents and investor in IP assets.

ROBERT MCSORLEY
Director and IP Damages Testifying Expert, Hatch-Waxman Practice Leader.
Mr. McSorley has more than 25 years of experience addressing the economic, financial, and accounting issues involved in commercial litigation. During his career, Mr. McSorley has been retained in IP disputes, accounting malpractice claims, breach of contract actions, fraud investigations, among other types of litigation. Mr. McSorley has testified in deposition, at arbitration hearings, and in Federal District Courts around the Country, and courts and juries have adopted his opinions and conclusions.

Mr. McSorley is a leader of Ocean Tomo’s Hatch-Waxman practice. In connection with these cases, Mr. McSorley has addressed issues concerning commercial success, irreparable harm, and economic damages. He has also studied other aspects of the U.S. pharmaceutical industry, including the profitability of the U.S. Fortune 500 pharmaceutical firms, the ability to finance and recover pharmaceutical R&D costs, the patenting strategies of branded pharmaceutical firms, and payer and formulary practices.

MICHAEL K. MILANI
Managing Director and Testifying Expert Ocean Tomo’s Chicago office.
Michael Milani is an experienced damages expert who combines 20 years of litigation experience with 6 years of corporate strategy expertise. He has worked on well over 100 litigation assignments across a wide range of industries.

As a testifying expert in Federal Court, State Court, and ADR proceedings, Michael addresses financial issues in complex commercial litigation, with an emphasis on matters involving intellectual property. Outside the courtroom, Michael consults with clients on all phases of the litigation process, in addition to providing other forms of IP management advice. Michael also enjoys teaching and has served as an adjunct professor for both graduate business and law school classes, in addition to presenting at several highly ranked business and law school programs.

Michael’s unique blend of litigation and corporate strategy expertise allows him to apply innovative yet practical approaches to his client engagements. His “hands-on” philosophy results in quality analyses, reports and testimony, while eliminating inefficiencies that can result when experts are less involved in their cases.

SHIRLEY WEBSTER
Managing Director and oversees Ocean Tomo’s Houston office. She is an economist with more than 30 years of professional experience.
Ms. Webster has testified in State and Federal courts, in arbitration and at the ITC. She has directed analyses of intellectual property economic damages resulting from patent infringement, trade secret misappropriation, trademark infringement, copyright infringement and in gray market goods litigation. Ms. Webster has also provided testimony and analyses in intellectual property matters before the ITC with regard to domestic industry and exclusion orders. In addition to her experience with intellectual property matters, Ms. Webster has provided consulting services, including analysis and expert testimony, on breach of contract litigation, product liability litigation, franchisee/franchisor and distributor disputes, fraud/misappropriations, valuations of intellectual property and intellectual property licensing strategy. Ms. Webster has assisted clients in a variety of industries, including semiconductor, software, medical products, energy, chemicals, telecommunications, consumer products, retail and securities.
Ocean Tomo, the Intellectual Capital Merchant Banc™ firm, provides companies with financial services related to intellectual property and intangible assets including financial expert testimony, valuation, strategy consulting, patent analytics, investment advisory, innovation management consulting and transaction brokerage.

Our Opinion, Management, and Advisory Services are built upon more than three decades of experience valuating intellectual property in the most rigorous of venues – State, Federal and international courts. Our financial, market and technical experts provide a unique understanding of the contributory value of proprietary innovation. This is the cornerstone of our business. This insight permeates every practice and client engagement.

Collectively, Ocean Tomo professionals have:

- Completed over 1000 engagements involving IP worth in excess of $10 billion including over 300 valuation and 500 financial damages expert testimony engagements;
- Successfully closed hundreds of IP sale transactions with a cumulative transaction value well in excess of $750 million;
- Served as a trusted advisor involving the biggest IP transactions in history;
- Originated more successful IP monetization solutions than any other firm, including creation of the world’s oldest and most successful live patent auction.

Our track record of results spans more than 100 different industry segments. Because our past success provides the best indication of our capabilities, we are proud to feature a few representative engagements and encourage potential clients to seek references from past clients.

Headquartered in Chicago, Ocean Tomo has offices in Greenwich, Houston, and San Francisco.

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Ocean Tomo assists clients – corporations, law firms, governments and institutional investors – in realizing Intellectual Capital Equity® value broadly defined.