Ocean Tomo provides industry leading financial products and services related to intellectual property. Our comprehensive professional offering is built upon more than three decades of experience valuing intellectual property in the most rigorous of venues – State, Federal and international courts. Our financial, market and technical experts have 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.

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


Case No. 2:16-cv-02767-EGS

Engagement
Deposition & Trial Testimony

Technology
Recipes, ingredient specifications, and production processes for fig spread

Case Issues
Claims of misappropriation of trade secrets, breach of contract, trademark infringement, trademark counterfeiting, unfair competition, and conversion

Damages calculated as lost profits and unjust enrichment

Results
On February 24, 2017 a Pennsylvania jury returned the first verdict under the Defend Trade Secrets Act, which was signed into law in 2016. The case, Dalmatia Import Group, Inc. v. FoodMatch Inc. et al. was heard in the United States Court for the Eastern District of Pennsylvania. The jury awarded Dalmatia $2,567,000 in compensatory damages related to trade secret misappropriation, along with trademark infringement and counterfeiting. The final award was increased for statutory damages and trebling. Ocean Tomo Managing Director James E. Malackowski opined as to the damages in the case.

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EXPERT TESTIMONY

IDENIX PHARMACEUTICALS INC. ET AL. V. GILEAD SCIENCES INC. ET AL.,

United States District Court for the District of Delaware Civil Action No.1:13-cv-01987

Engagement
Deposition & Trial Testimony

Technology
Patent pertaining of Hep C medication

Case Issues
Patent Infringement, Idenix sought a 10% Gilead’s US sales

Results
Jury awarded Mr. Carter’s claim for 10% ($2.5 B) resulting in the largest patent verdict in history

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EXPERT TESTIMONY

PETTER INVESTMENTS, INC. V. HYDRO ENGINEERING, INC.

United States District Court for the Western District of Michigan
Civil Action No. 1:2007-cv-01033

Engagement

Trial and Deposition Testimony

Technology

Wash Racks and Wastewater Recycling Systems

Case Issues

Patent Infringement

Results

Dispute involving two direct competitors in the heavy machinery wash rack industry. Ocean Tomo determined damages including lost profits and reasonable royalties. After Ocean Tomo’s deposition, the case settled favorably to the client.

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CONCEPTUS, INC. V. HOLOGIC, INC.

United States District Court for the Northern District of California
Civil Action No. 3:09-cv-02280

Engagement
Trial and Deposition Testimony

Technology
Permanent Birth Control System

Case Issues
Patent Infringement

Results
In Conceptus v. Hologic, the plaintiff accused the defendant of infringing the patent for a revolutionary method of permanent birth control. At trial, Ocean Tomo’s expert successfully presented a case for 100% lost profits, resulting in award of the full amount calculated. In a post-trial settlement, the defendant agreed to remove its infringing product from the market.

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FIRST AMERICAN CORELOGIC, INC. V. FISERV, INC. ET AL.

United States District Court for the District of Texas (Marshall)
Civil Action No. 2:10-cv-00132

Engagement
Trial and Deposition Testimony

Technology
Automated Real Estate Software

Case Issues
Patent Infringement

Results
Ocean Tomo testified in Marshall, Texas as the damages expert for the defendant in this patent infringement action related to internet services. Ocean Tomo's testimony rebutted CoreLogic's claim of $26 million in damages, demonstrating that the patent-in-suit had minimal value as used by the defendant. Interthinx was found to not infringe.

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OMEGA PATENTS, LLC v. FORTIN AUTO RADIO, INC.

United States District Court for the Middle District of Florida (Orlando)
Civil Action No. 6:05-cv-01113

Engagement
Trial and Deposition Testimony

Technology
Electrical Connectors and In-Vehicle Car Alarm Systems

Case Issues
Patent Infringement

Results
Ocean Tomo testified as a damages expert for the defendant in a patent infringement action concerning electrical components. The plaintiff claimed damages of approximately $20 million. Ocean Tomo demonstrated to the jury why the damages should be only roughly $400,000. Although the infringement was found to be willful, the jury substantially agreed with Ocean Tomo and awarded roughly just $600,000 in damages.

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United States District Court for the District of Delaware  
Civil Action No. 03-508 (JJF)

Engagement

Trial and Deposition Testimony

Technology

Improvements to Router Technology

Case Issues

Patent Infringement, Reasonable Royalty

Results

Lucent alleged infringement on virtually all of Extreme Networks’ sales and determined a royalty of 1% for each of the 5 patents allegedly infringed for a total of 5%. Ocean Tomo conducted a thorough analysis of all Extreme Networks’ sales channels and, with additional technical analysis of the actual use and set-up of the alleged improvements, reduced the royalty base by 20 fold. Ocean Tomo further opined a royalty rate that included stacking considerations. The jury found in favor of Ocean Tomo’s damages opinion and the parties settled soon thereafter.

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ST. CLAIRE INTELLECTUAL PROPERTY CONSULTANTS V. FUJI PHOTO FILM CO., LTD., FUJI PHOTO FILM U.S.A., INC., FUJIFILM AMERICA, INC. ET AL.

United States District Court for the District of Delaware
Civil Action No. 03-241 JJF

Engagement
Trial and Deposition Testimony

Technology
Digital Cameras

Case Issues
Patent Infringement

Results
Ocean Tomo represented Fuji in a patent case involving the type of file formats used by digital cameras to store images and movies. Ocean Tomo Testified that, assuming the patent is valid and infringed, Fuji should pay damages based on a reasonable royalty ranging from 0.5% - 0.75% of sales and the opposing expert opined to a royalty of 3.0%. Untimely the jury award damages based on a 0.5% royalty, based on the low end of the royalty rate range testified to by Ocean Tomo.

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CARTER BRYANT V. MATTEL, INC. AND CONSOLIDATED ACTIONS

United States District Court for the Central District of California, Southern Division
Case No. CV 04-9049-DOC (RNBx) Consolidated with Nos. CV 04-9059 and CV 05-2727

Engagement
Trial and Deposition Testimony

Technology
Dolls and Children’s Toys

Case Issues
Trade Secret Misappropriation, Copyright Infringement

Results
In the second trial regarding Mattel’s claim of ownership of rights to Bratz dolls, Ocean Tomo testified that MGA had suffered $85 million in damages due to Mattel’s misappropriation of MGAs trade secrets. MGA was awarded $85 million in trade secret misappropriation damages and the jury rejected all of Mattel’s claims to the Bratz dolls and did not award Mattel any copyright damages. MGA was also awarded punitive damages and legal fees and costs.

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EXPERT TESTIMONY

IN THE MATTER OF CERTAIN SEMICONDUCTOR CHIPS WITH MINIMIZED CHIP PACKAGE SIZE AND PRODUCTS CONTAINING SAME (III)

United States International Trade Commission
On behalf of Respondents Acer, Nanya and Powerchip Investigation No. 337-TA-630

Engagement
Hearing and Deposition Testimony

Technology
Specific Technology Related to the “Packaging” of DRAM Chips

Case Issues
Determining the Number of the Unlicensed Chips Imported into or Sold in the U.S. by the Defendants Versus Remaining Suppliers and Licensees.

Results
Ocean Tomo opined that the majority of units sold in or imported into the U.S. by defendants were purchased from suppliers or subcontractors directly licensed by Tessera. The Administrative Law Judge, in agreement with Ocean Tomo, found that all chips Defendants purchased from Tessera licensees were authorized thus, Tessera’s rights in those chips were subject to exhaustion, and that none of Tessera’s patents had been infringed. The ITC made a final determination that there was no violation of Section 337.

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**Engagement**

Trial Testimony

**Technology**

Electronic Lighting Ballasts

**Case Issues**

Patent Infringement and Lump Sum Royalties

**Results**

In a trial relating to the infringement of several patents, plaintiff’s expert opined to a running royalty ranging from $9.3 - $15.6 million, plus additional post-trial royalties. Ocean Tomo testified that the proper form and amount of the reasonable royalty was a fully paid up lump-sum royalty of $.1.5 million, and no post trial royalties. Following findings of validity and infringement, the plaintiff was awarded a fully paid-up lump sum royalty of $3.0 million and no post-trial royalties.

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EXPERT TESTIMONY

EXTREME NETWORKS, INC. V. ENTERASYS NETWORKS, INC.

United States District Court for the Western District of Wisconsin
Civil Action No. 07-C-0229-C

Engagement
Trial and Deposition Testimony

Technology
Enterprise Switches and Routers

Case Issues
Patent Infringement

Results
Ocean Tomo testified that Extreme Networks was due reasonable royalty damages due to Enterasys Networks’ infringement of three Extreme Networks patents relating to switch and router technology. Extreme Networks was awarded over $200,000 in reasonable royalty damages consistent with Ocean Tomo calculations. Enterasys Networks was permanently enjoined from selling the infringing products.

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In a trial regarding Brocade and Foundry's allegations against A10 Networks regarding broad-based intellectual property infringement and unfair competition, Ocean Tomo testified that Brocade and Foundry had suffered damages resulting from patent infringement, copyright infringement, trade secret misappropriation and unfair interference with contract. The jury found for Brocade and Foundry on each of these claims and awarded Brocade and Foundry $112 million in damages equal to the amount determined by Ocean Tomo.
EXPERT TESTIMONY

COMMONWEALTH SCIENTIFIC AND INDUSTRIAL RESEARCH ORGANIZATION V. LENOVO ET AL.

United States District Court for the Eastern District of Texas, Tyler Division
Civil Action No. 6:09-cv-00400-LED

Engagement
Testimony

Technology
WiFi

Case Issues
Patent Infringement, Multi-Defendant, Standards-Based Technology

Results
Ocean Tomo determined the damages related to the widespread infringement of CSIRO’s essential WiFi patent against multiple defendants across multiple industries. After depositions were completed, all parties settled the case totaling over $220 million.

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Engagement
Trial and Deposition Testimony

Technology
Automotive Windshields

Case Issues
Patent Infringement

Results
Ocean Tomo testified as a damages expert for the plaintiff, St. Gobain, in a patent infringement action concerning automotive windshields, demonstrating why St. Gobain should be awarded both lost profits and price erosion damages. The jury awarded the exact damages figure requested by Ocean Tomo, which was in excess of $10 million.

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EXPERT TESTIMONY

FUJITSU LTD. V. TELLABS, INC., TELLABS OPERATIONS, INC. AND TELLABS NORTH AMERICA, INC.

United States District Court for the Northern District of Illinois, Eastern Division
Civil Action No. 09-cv-04530

Engagement
Trial and Deposition Testimony

Technology
Optical Network Signal Amplification and Routing

Case Issues
Patent Infringement and Reasonable and Non-Discriminatory (“RAND”) Royalties

Results
Ocean Tomo prepared expert reports on both traditional and RAND royalties and testified as an expert in the field of damages and patent licensing, including the economics of RAND obligations. The jury found in favor of Ocean Tomo’s opinions.

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EXPERT TESTIMONY

MILWAUKEE ELECTRIC TOOL CORP., ET AL. V. SNAP-ON INC.

United States District Court for the Eastern District of Wisconsin
Case No. 2:14-cv-01296

Engagement
Patent Infringement Litigation

Technology
Lithium-Ion Batteries in Cordless Power Tools

Case Issues
Milwaukee Tool, a Wisconsin based power-tool company, is a major innovator in the cordless power tool industry. In 2005, Milwaukee Tool introduced the V28™ line of lithium-ion powered tools, the world’s first high-current cordless handheld power tools powered by lithium-based battery packs. The V28™ provided the power of corded tools while being light and compact enough for cordless use. Milwaukee Tool's parent company, Tooltechnic Industries Co. Ltd., is headquartered in China and is a leading marketer, manufacturer and supplier of power tools and home improvement products. Defendant, Snap-on, Inc., like many toolmakers, introduced lithium-ion battery packs in its tools after Milwaukee Tool's launch of the V28™.

Plaintiffs alleged that Snap-on, Inc.’s use of the technology described in three of Milwaukee Tool's patents constituted infringement. Mr. Malackowski testified on behalf of the plaintiffs on the matter of financial damages resulting from the alleged patent infringement. The Ocean Tomo team assisting Mr. Malackowski on the engagement included Rich Lettiere and Chelsea Nacker.

Results
Plaintiffs won on patent validity, infringement and willfulness. The jury awarded damages of $27.8 million, matching Mr. Malackowski’s opinion.

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About Ocean Tomo

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.

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

Ocean Tomo Investment Group, LLC, a licensed broker-dealer under Federal and State securities law (brokercheck.finra.org Broker Check CRD #: 172912) is a subsidiary of Ocean Tomo.

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