



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 approximately 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 develop a focused and creative 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.



CONTACT

Molly Keelan
Senior Director
Client Services
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Ms. Keelan's efforts at Ocean Tomo are concentrated in the practice of business development, sales relationship growth and maintenance within the expert testimony and valuation practices. In working with the firms CEO, COO, and Managing Directors, she successfully develops firm-wide and practice group-specific key account strategies, and establishes and nurtures long term revenue relationships. Through speaking engagements and conference participation, Ms. Keelan creates and solidifies an industry presence.



ERIC CARNICK
Senior Director

Mr. Carnick has more than 14 years of experience addressing financial, economic, licensing, and accounting issues related to intellectual property and breach of contract litigation. He has offered his expert opinions in Federal Court and deposition. His experience spans numerous industries including semiconductors, software, fiber optics, telecommunications, consumer electronics, pharmaceuticals, medical devices, and transportation. He has also authored several publications related to intellectual property damages and presented at graduate business and law programs. Mr. Carnick's approach involves intimately understanding the key facts of the dispute to develop the strategic direction of the damages case and eliminate the inefficiencies that can arise from a less hands-on approach, bringing considerable value to his clients.



ANDREW W. CARTER
Co-founder

For almost 30 years Mr. Carter has focused on intellectual property infringement damages, providing expert witness testimony in excess of 80 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, in the Federal Court of Canada, and at the ITC. 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.



ALEXANDER CLEMONS
Senior Director

Unique among Ocean Tomo's other testifying experts, Mr. Clemons holds both a JD and MBA. This background best positions him to understand, anticipate, and adapt to the ever changing legal landscape surrounding damages proof requirements, while developing creative solutions to the most challenging damages issues. He has extensive experience across numerous industries related to the assessment of economic damages in litigation matters involving intellectual property, breach of contract, and other claims. In addition, Mr. Clemons consults with clients on strategic IP management issues, licensing assistance, and IP transaction support.



CATE M. ELSTEN
Managing Director, and 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 Estée Lauder) and others.



ROBERT M. HESS
Co-founder and Managing Director

Mr. Hess concentrates his efforts 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 a quarter century 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.



**JUSTIN LEWIS**

Managing Director and San Francisco Office Leader

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 was 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**

Co-founder and CEO 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 R. MCSORLEY**

Senior Director and Hatch-Waxman Practice Leader

Mr. McSorley has 30 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. 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 consulted on other aspects of the pharmaceutical industry, including the profitability of pharmaceutical firms, the ability to finance and recover R&D costs, the patenting strategies of branded firms, and payer/formulary practices.

**MICHAEL K. MILANI**

Managing Director

Mr. Milani is an experienced damages expert, combining three decades of litigation and corporate strategy expertise. He has worked on hundreds of assignments across a wide range of industries. As a testifying expert in Federal Court, State Court, the ITC, and in ADR proceedings, he addresses financial issues in complex commercial litigation, with an emphasis on matters involving intellectual property. Mr. Milani also enjoys teaching and has served as an adjunct professor for both graduate business and law school classes. Mr. Milani'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 Houston Office Leader

An economist with over 30 years of 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, including for infringement of patents, trademarks and copyrights, and trade secret misappropriation. Ms. Webster has provided consulting services, including analysis and expert testimony, on breach of contract litigation, product liability matters, franchisee/franchisor and distributor disputes, bankruptcy, fraud/misappropriations, dissident shareholder actions, ERISA matters, personal injury, business valuations, IP valuations and licensing strategy. Ms. Webster has assisted clients in numerous industries, including software, chemicals, semiconductor, medical products, energy, telecommunications, consumer products, banks and retail.

**CONTACT****Andrew W. Carter**

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About Ocean Tomo

Established in 2003, Ocean Tomo, LLC provides Financial Expert, Management Consulting, and Advisory services related to intellectual property (IP) and other intangible assets; corporate accounting investigations; regulatory and reporting obligations; solvency and restructuring; and contractual or competition disputes.

Practice offerings address economic damage calculations and testimony; accounting investigations and financial forensics; technology and intangible asset valuation; strategy and risk management consulting; mergers and acquisitions; debt and equity private placement; and IP brokerage.

Our services are built upon more than three decades of experience in the most rigorous 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, including over 300 valuation and 500 financial damages expert testimony engagements;
- Consulted and provided expert testimony on some of the highest profile matters over the past decades;
- Successfully closed hundreds of IP sale transactions with a cumulative transaction value well in excess of \$1 billion; and
- 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 150 different industry segments. Because our past success provides the best indication of our capabilities, we are proud to serve more than 80% of the AM Law 100® and encourage potential clients to seek references from past clients.

Intangible assets comprise 90 percent of business value but are also subject to significant impairment due to enterprise and regulatory compliance risk. Ocean Tomo assists clients – corporations, law firms, governments, and institutional investors – in realizing Intellectual Capital Equity® value broadly defined.

Headquartered in Chicago, Ocean Tomo has offices in Greenwich, Houston, Jacksonville, Reston, San Francisco, and Shanghai. Subsidiaries of Ocean Tomo include Ocean Tomo Investment Group, LLC, a licensed broker-dealer under Federal and State securities law (brokercheck.finra.org Broker Check CRD #: 172912), OTI Data Networks, LLC and Patent Marking, LLC.



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