

OCEAN TOMO

TRADE SECRET MANAGEMENT AND MONETIZATION



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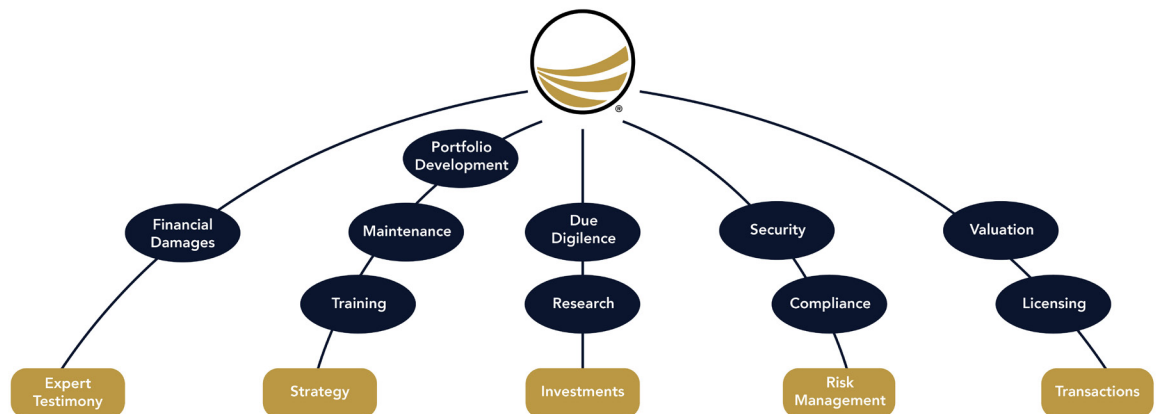
“In Today’s World, The Most Valuable Thing That Anyone Has Is Technology... The Most Important Thing This Country Can Do Is Protect Its Trade Secrets.”

– JUDGE RUBEN CASTILLO

Intangible assets are now responsible for 90% of all business value, much of which is represented by registered Intellectual Property (IP) – patents, trademarks and copyrights. The most significant remaining assets are a firm’s proprietary know-how maintained as trade secrets.

Reductions in technology life cycles combined with the inherent uncertainties of patent prosecution have recently resulted in a greater emphasis on protecting innovation through secrecy. Indeed, the value and commercial impact of trade secrets can be seen in the growth in trade secret litigation and the size of published settlements and awards.

Ocean Tomo, LLC is an integrated Intellectual Capital Merchant Banc™ firm providing a holistic suite of financial products and services relating to all forms of IP. Our professionals lead the industry in IP centric expert testimony, strategy, investment analysis, risk management, transactional analysis, valuation and research. In recognition of the above and other recent business trends, we have enhanced our offering to now provide specialized trade secret management and monetization advisory services.



Ocean Tomo is a firm of experienced and dedicated professionals knowledgeable about all financial and operational issues concerning trade secrets. Our services provide clients with opportunities to uniquely realize and leverage the value of their trade secrets as business assets.

Expert Testimony

All IP disputes, and particularly those involving trade secrets, include complex economic issues that must be clearly communicated to judges and juries. Ocean Tomo professionals have extensive experience as expert witnesses in such matters, and that expertise synergistically benefits from our non-litigation advisory business. Our experts understand that trade secret remedies and their method of calculation can differ from other forms of IP and that the state-of-the-art in this regard continues to evolve based on case law which is often unique to a given State. Examples of such differences can include:

- Calculations of actual loss and unjust enrichment
- The appropriateness of incremental versus fully allocated cost determinations
- A reasonable royalty measure of damages based on, e.g., modified Georgia-Pacific factors

Ocean Tomo has been at the forefront of advancing the state-of-the-art in trade secret damage determinations. Ocean Tomo has been at the forefront of advancing the most accurate and complete trade secret damages determinations based on peer reviewed methods, either from known academics and professionals or of Ocean Tomo's own development. Ocean Tomo's track record includes some of the largest trade secret damages awards and the nation's most sophisticated trade secret owners.

Strategy

Ocean Tomo's Strategy Business is built upon our unparalleled experience spanning nearly two decades across a comprehensive set of IP driven opportunities. Whether addressing a unique event or IP asset, or ongoing management of a company's entire IP portfolio, we begin with an understanding of management's overall concerns and objectives. Ocean Tomo's Strategy products and services relating to trade secrets are focused on:

Portfolio development – using a genus to species approach, we work with clients to identify and inventory their trade secrets, including related core technology and information, as well as next best options, to account for and compile the source and corresponding research and development data required to both protect and transact these IP assets.

Maintenance – alongside best-of-breed third-party service providers, Ocean Tomo advises its clients on obtaining escrow/back-up services to ensure that their trade secrets are properly secured, stored and cannot be lost through a single act of theft, hacking or natural disaster.

Training – with the benefit of Ocean Tomo led guiding principles approved by senior executives and a proper trade secret portfolio development and maintenance program, our professionals provide managers and line employees with on-site, best practices training to protect the company's secrets and further the company's overall trade secret program.

Investments

IP-driven investment banking transactions are a frequent subject of news headlines. Key to such mergers and acquisitions is a thorough understanding of the trade secrets being acquired and the measures to protect them. Ocean Tomo professionals work with transaction principals as well as their counsel and bankers to identify and assure protection of such IP assets. Our firm is uniquely capable of adding value to such opportunities through our proprietary products and services as well as our industry leading holistic approach.

Risk Management

Ocean Tomo applies its expertise in understanding and valuing IP assets to minimize the possibility and impact of adverse events. Specific to trade secrets, Ocean Tomo and its partners offer risk management solutions addressing security, compliance and documentation of prior use.

Trade secrets are often licensed, either on a stand-alone basis or as part of a patent or broader IP license. In any such case, the trade secret licensor should consider periodic audits of licensee compliance with applicable obligations relating to, for example, royalties, maintaining secrecy, and accounting for new or improved developments. Given Ocean Tomo's holistic trade secret products and services as well as our substantial auditing experience, we are uniquely suited to conduct compliance audits for trade secret owners. We also provide consulting advice when clients are being audited by third parties.

Legislative changes also have heightened the importance of trade secrets. In particular, the prior use defense under 35 U.S.C. § 273 provides that, as to any U.S. patent issued on or after September 16, 2011, an accused infringer may be able to assert, as a defense to infringement, its prior commercial use of the patented subject matter in the United States. Ocean Tomo professionals rely on their holistic approach and expertise to best assure that such protection is readily available to clients.

Transactions

Ocean Tomo professionals have significant experience in valuing IP assets. Ocean Tomo's trade secret appraisals account for unique value-related aspects of trade secrets, including investments in research and development, life cycle benefits and obsolescence, discount rates and corresponding cash flows. Trade secrets tend to build value when one or more of the following factors exist, and Ocean Tomo uniquely accounts for each of them:

- Specific revenue generation – trade secrets may provide a barrier to entry, a head start or both, each of which enables the trade secret owner to extract premium profits through commercial sales of products and/or services.
- Cost savings – as opposed to a top line revenue benefit, trade secrets may provide operating cost savings that increase operating margins.
- Risk reduction – proprietary know-how maintained as trade secrets often can reduce the risk associated with future cash values, thereby directly increasing net present value of a business or product.
- Time acceleration – utilization of trade secrets may generate cash flows faster than if the owner had to use alternative technology or information.

Often, the valuation of trade secrets will begin with assessing the time, effort and expense to independently develop such know-how, including any delay in market activity during the research and development period. Ocean Tomo appreciates and also uniquely accounts for those circumstances.

Trade secrets can be an integral component to a company's operations and viability. Trade secrets are also increasingly becoming an alternative source of revenue and value recognition through license or a host of other transaction types. Ocean Tomo professionals have significant experience and unique expertise relating to the financial and other business terms of such transactions. In connection with any opportunity to leverage a firm's proprietary know-how or trade secrets, our experience and expertise will help to further the benefits that an owner will realize.



CONTACT

Gregory Campanella

Managing Director
+1 415 946 2605
gregory.campanella@jsheld.com

Gregory Campanella is responsible for leading Ocean Tomo's Management Services Group and is a Managing Director in the Valuation practice. Mr. Campanella's work has focused on valuations of intangible, intellectual property and tangible assets for acquisitions and divestitures, bankruptcy and restructuring, establishment of monetization strategies including licensing, mergers and joint venture/partnership formations, litigation support, and financial reporting and tax matters.

Mr. Campanella also has experience performing business enterprise, equity and debt valuations. Industries in which he has experience include telecom, computer hardware and software, entertainment, semiconductors, life sciences/pharmaceuticals, wireless and wired communication, e-commerce, among others.



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About Ocean Tomo

Ocean Tomo LLC provides Expert Opinion, Management Consulting, and Advisory services focused on matters involving intellectual property (IP) and other intangible assets. Practice offerings address economic damage calculations and testimony; business licensing strategy and contract interpretation; trade secret reasonable measures; asset and business valuation; strategy and risk management consulting; merger and acquisition advisory; debt and equity private placement; and IP brokerage.

Ocean Tomo experts are routinely qualified in U.S. District Courts, U.S. Bankruptcy Courts, U.S. Tax Court, U.S. Court of Federal Claims, state courts, the U.S. Patent and Trademark Office Patent Trial and Appeal Board, international courts, and arbitration tribunals on questions relating to intellectual property economics. The firm's professionals have provided expert opinions on IP valuation, reasonable royalty, lost profits, price erosion, commercial success, corrective advertising, creditor allocations, Hatch-Waxman Act market exclusivity, business licensing terms including RAND obligations, venture financing, and equities of a potential injunction. The firm's experience extends to general business valuation and commercial disputes, domestic and foreign, as well as policy issues affecting international technology transfer and economic matters before the International Trade Commission.

Intangible assets comprise 90 percent of business value but are also subject to significant impairment due to enterprise and regulatory compliance risk. Our services are built upon more than three decades of experience assessing intellectual property in the most rigorous of venues. Our financial, market, scientific, and technical experts have deep experience with tangible and intangible assets protected by intellectual property. We bring a unique understanding of the contributory value of proprietary innovation to every engagement. This is the cornerstone of our business.

Subsidiaries of the firm include Ocean Tomo Investments Group, LLC, a registered broker-dealer. As a part of J.S. Held, Ocean Tomo works alongside more than 1500 professionals globally and assists clients – corporations, insurers, law firms, governments, and institutional investors – on complex technical, scientific, and financial matters across all assets and value at risk.

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About J.S. Held

J.S. Held is a global consultancy providing technical, scientific, and financial expertise across all assets and value at risk. Our professionals serve as trusted advisors to organizations facing high-stakes events demanding urgent attention, staunch integrity, clear-cut analysis, and an understanding of both tangible and intangible assets. The firm provides a comprehensive suite of products, data, and services that enable clients across industries to navigate complex, contentious, and often catastrophic situations.

In 2022, Ocean Tomo joined J.S. Held, continuing the strategic growth of the firm. Leveraging the J.S. Held team of more than 1,500 professionals around the world, our clients will now have access to J.S. Held's suite of specialized services, including:

- Construction Advisory Services
- Corporate Finance
- Economic Damages and Valuation Services
- Environmental, Health, and Safety Services
- Equipment Consulting
- Forensic Accounting
- Forensic Architecture and Engineering
- Global Investigations
- Property and Infrastructure Damage Consulting
- Surety Services

Headquartered in New York, J.S. Held has offices across the United States, Canada, Latin America, Europe, Asia Pacific, and the Middle East.

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