



# INTELLECTUAL PROPERTY DISPUTES EXPERT TESTIMONY PROFESSIONALS

**We are known for our “teaching” - as opposed to “telling” - approach 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 Expert Testimony professionals have industry-leading experience across all types of disputes and are particularly skilled in the determination of damages involving Intellectual Property (IP). 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. 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

**Michael K. Milani**

Senior Managing Director  
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Michael Milani leads the Expert Opinion group. He is a Senior Managing Director in the Intellectual Property Disputes practice and has significant ITC experience.

Mr. Milani also has significant experience addressing economic considerations in connection with 337 investigations at the International Trade Commission. In connection with that work, Mr. Milani has offered testimony in several hearings relating to the issues of domestic industry, remedy, bond, public interest, and commercial success. Mr. Milani's professional experience covers a wide range of industries including consumer products and electronics, medical equipment and devices, pharmaceuticals, semiconductors, LED, sporting goods, computer networking equipment, cellular technologies, avionics, retail security, as well as industrial/building, lighting, automotive and flooring products, among others.



**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, CPA, CLP, CFF, CGMA, FINRA 7 & 63**

Senior Managing Director

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 International Trade Commission (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, JD, MBA**

Managing 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, CMA, CLP, MAB**

Managing Director

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, CPA**

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.



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**SHELLY IRVINE**  
Managing Director

Shelly Irvine is a Managing Director in the Intellectual Property Disputes Practice and leads the San Francisco office of Ocean Tomo, a part of J.S. Held. Ms. Irvine has over 20 years of experience consulting with clients and counsel regarding intellectual property matters in a wide range of industries. Ms. Irvine is focused exclusively on clients who have intellectual property needs, both within litigation as well as advising clients regarding IP business planning, benchmarking, and valuation. Her experience spans many industries including telecom, blockchain, crypto, software, life sciences, semiconductor, clean energy, cloud computing and manufacturing.



**JUSTIN LEWIS, CPA, CVA, CFF**  
Managing Director

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, CPA, CLP**  
Senior Managing Director

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, JD, CPA**  
Managing Director

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, CLP**  
Senior 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.



#### CONTACT

**Molly Keelan**  
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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 Financial Expert group and valuation practices. In working with the firms Managing Directors and C-level team, she successfully develops firm-wide and practice specific key account strategies, and establishes and nurtures long term client relationships. Through speaking engagements and conference participation, Ms. Keelan creates and solidifies an industry presence.



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Mr. Milani also has significant experience addressing economic considerations in connection with 337 investigations at the International Trade Commission. In connection with that work, Mr. Milani has offered testimony in several hearings relating to the issues of domestic industry, remedy, bond, public interest, and commercial success. Mr. Milani's professional experience covers a wide range of industries including consumer products and electronics, medical equipment and devices, pharmaceuticals, semiconductors, LED, sporting goods, computer networking equipment, cellular technologies, avionics, retail security, as well as industrial/building, lighting, automotive and flooring products, among others.



**BRIAN W. NAPPER**

Senior Managing Director

Brian W. Napper is an intellectual property valuation, licensing, and commercialization expert skilled in the determination of financial damages. With over 30 years of professional experience, Mr. Napper is a Senior Testifying Consulting Expert working from the San Francisco office of Ocean Tomo, a part of J.S. Held. He is also part of the Leadership Team.

On more than 80 occasions over the last ten years, Mr. Napper has provided deposition, trial, and arbitration testimony across a wide range of courts and tribunals. His testimony in courts covers some of the most popular patent infringement forums in the country, including the ED Texas, Delaware, Nevada, ND California, ED California, WD California, ND Illinois, ED Virginia and WD Wisconsin. He has provided testimony before the International Trade Commission (ITC) and several Arbitration panels (including the International Chamber of Commerce) on issues of domestic industry (ITC), economic damages, and Fair Reasonable and Non-Discriminatory (FRAND) licensing rates.



**SHIRLEY WEBSTER, CBE**

Managing Director

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.



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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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