



# 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 Expert 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 litigation analysis experience, benefiting 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. We have served as experts 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.





#### CONTACT

**Todd Schoettelkotte,  
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Senior Managing Director  
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Todd Schoettelkotte leads the Expert Opinion group. He is a Senior Managing Director in the Intellectual Property Disputes practice. Prior to joining J.S. Held, Todd was the President, Managing Director of IPFC Corp. Todd has more than thirty years of experience as a financial consultant in a variety of litigation matters and disputes, including intellectual property, breach of contract, business interruption, valuation, and general damage assessments. He has significant experience assisting companies with complex financial accounting and litigation issues across many industries. Todd works with clients on complex studies involving valuations, lost sales, lost profits, incremental profits, reasonable royalty, unjust enrichment, product line profitability, fixed and variable cost analysis, manufacturing, and marketing capacity, cost claims, company financial performance, and interest on damages.



**PAUL BENSON, CLP, CFE**

Managing Director

Paul Benson has more than 20 years of professional experience consulting with clients and advising on complex commercial disputes and intellectual property matters. He has provided advisory services to clients on economic, valuation, and strategic issues related to intellectual property, general business, and commercial disputes.

Paul has extensive experience evaluating and quantifying economic damages in engagements that have involved patent infringement; copyright and trademark infringements; misappropriation of trade secrets; contractual breach; and financial investigations. He is skilled at evaluating lost profits, calculating unjust enrichment, and determining reasonable royalty rates.



**ERIC CARNICK, CLP**

Managing 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.



**EARL FAIRBANKS**

Managing Director

Earl Fairbanks has more than 20 years of experience providing financial consulting and damage analysis to companies and law firms. These matters include intellectual property, government contracts, energy, healthcare, and general commercial disputes. Intellectual property experience includes valuation and analysis of damages related to patent infringement, misappropriation of trade secrets, copyright, breach of contract, and tortious interference. He has extensive experience in the analysis of sales, costs, profits, license agreements, business plans, industry competition, market conditions, case law, and other information for the purposes of calculating damages and valuations.



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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.

**JOANNE JOHNSON, CPA, CLP**

Managing Director

Joanne Johnson has fifteen years of experience in quantifying economic damages arising from intellectual property disputes. Ms. Johnson has consulted on various engagements involving the determination of economic damages for patent, trademark, copyright and trade dress infringement as well as trade secret misappropriation and breach of contract matters. While specific issues vary by engagement, her work has included evaluation and analysis of financial and business data for the quantification of lost profits, reasonable royalties, price erosion, unjust enrichment, and assessment of commercial success.

**DAN LINDSAY**

Managing Director

Prior to joining J.S. Held, Dan Lindsay was a Co-Founder and Managing Director of IPFC Corp. Dan has more than twenty years of professional experience providing financial consulting, damages analysis, and expert witness services to law firms and companies throughout the country involved in litigation and other disputes. Such matters have involved patent, trademark, trade dress, breach of contract, business interruption, antitrust, and oil and gas royalty issues, among others. Dan has been designated and testified as an expert in federal court, and has been recognized by Intellectual Asset Management as one of the leading economic experts in the field of intellectual property damages in the United States.

**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.

**CONTACT****Molly Keelan**

Senior Director

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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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#### **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.



#### **BRYAN VAN UDEN**

Managing Director

Prior to joining J.S. Held Bryan Van Uden was a Managing Director at IPFC Corp. Bryan has more than 20 years of experience in providing financial consulting expertise in valuations, dispute analysis, and strategies to improve business operations and profitability. His experience includes patent infringement, trademark infringement, copyright infringement, misappropriation of trade secrets, securities violations, veil piercing, breach of contract, personal injury, wrongful termination, unfair business practices, and business and intellectual property valuation.



#### **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, a part of J.S. Held provides Expert Opinion, Management Consulting, Advisory, and Specialty 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; patent-focused business intelligence; portfolio development strategy; litigation support; 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.

Our 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. Our 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, financial, and strategic matters across all assets and value at risk.

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## About J.S. Held

J.S. Held is a global consulting firm that combines technical, scientific, financial, and strategic expertise to advise clients seeking to realize value and mitigate risk. Our professionals serve as trusted advisors to organizations facing high stakes matters demanding urgent attention, staunch integrity, proven experience, clear-cut analysis, and an understanding of both tangible and intangible assets. The firm provides a comprehensive suite of services, products, and data that enable clients to navigate complex, contentious, and often catastrophic situations.

More than 1,500 professionals serve organizations across six continents, including 81% of the Global 200 Law Firms, 70% of the Forbes Top 20 Insurance Companies (85% of the NAIC Top 50 Property & Casualty Insurers), and 65% of the Fortune 100 Companies.

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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