

DARYL MARTIN, MSC, CLP
MANAGING PRINCIPAL



Daryl Martin is a Managing Principal at IPmetrics[®] Intellectual Property Consulting in San Diego, California. Mr. Martin has over 20 years' experience as a financial analyst, primarily focused on the valuation and analysis of intellectual property and intangible assets (IP). He is responsible for analyzing various types of IP including trademarks, copyrights, patents, trade secrets, domain names, mailing lists, and customer databases. Over the last decade, Mr. Martin has completed work on over 300 intellectual property valuation assignments, including projects for many of the top 100 IP law firms and numerous fortune 500 clients. His extensive background includes valuing intangible assets for the purposes of loan securitization, acquisitions/mergers, joint ventures, licensing transactions, transfer pricing, bankruptcy filings, and litigation support.

Prior to joining IPmetrics, Mr. Martin served as Vice President for a leading intellectual property management firm. During his eight plus year tenure, he was responsible for managing all intellectual property valuation, litigation support and monetization activities.

Mr. Martin has lectured and authored on a diverse array of intellectual property matters, particularly trademarks and copyrights, and has taught intellectual property valuation and damage calculation techniques to a wide variety of audiences. He has also been called on to calculate damages related to infringement of intellectual property in a multitude of bankruptcy and litigation matters. In addition, Mr. Martin previously served as Co-chair for both the Asset Sales Committee and the Technology and Intellectual Property Committee for the American Bankruptcy Institute (www.abiworld.org).

Mr. Martin attained the Certified Licensing Professional (CLP) designation in 2010 sponsored by the Licensing Executives Society and is an honors graduate of San Diego State University with a degree in Business Administration and his Masters in Finance.

PROFESSIONAL ASSOCIATIONS (CURRENT AND PAST)

- American Bankruptcy Institute (Past Co-chairman: Asset Sales Committee & Technology and Intellectual Property Committees)
- Association of Insolvency & Restructuring Advisors
- Certified Licensing Professionals (earned CLP designation in 2010)
- Commercial Finance Association
- Defense Research Institute
- International Trademark Association
- Licensing Executives Society
- National Association of Certified Valuation Analysts (Past Instructor)
- National Auctioneer's Association (Co-chair: NAA/ABI Joint Task Force)
- San Diego Intellectual Property Law Association
- Turnaround Management Association

PROFESSIONAL INSTRUCTION

- Continuing Legal Education – Instructor
 - Courses: Intellectual Property Valuation Techniques*
 - Monetary Remedies in Patent Litigation*
 - Monetary Remedies in Trademark Cases*
 - 10 Common Mistakes in IP Valuation / Damages Reports*
 - Brand Valuation*
- University of San Diego School of Law – Guest Instructor
 - Course: Monetary Remedies in Trademark Cases*

- National Association of Certified Valuation Analysts (NACVA) – Past Instructor
Course: *Intellectual Property: Calculating Damages and Lost Profits*

SPEECHES & PRESENTATIONS

- “*Monetary Remedies in Trademark Cases;*” University of San Diego School of Law– San Diego, CA, March 2015, April 2017 and March 2019
- “*Intellectual Property Valuation Techniques;*” Pillsbury Winthrop Shaw Pittman In-house CLE – San Diego, CA, August 2014
- “*10 Common Mistakes in IP Valuation / Damages Reports;*” Winston & Strawn In-house CLE – San Francisco, CA, July 2014
- “*10 Common Mistakes in IP Valuation / Damages Reports;*” Licensing Executives Society USA & Canada Webinar – Peach New Media, November 2013
- “*How to Use IP to Secure Funding;*” IP Money Talk Webinar, Blogtalkradio.com – San Diego, CA, September 2013
- “*Intellectual Property Valuation Techniques;*” MCLE presentation, PETCO Park, San Diego, CA, April 2013
- “*Monetary Remedies in Trademark Cases;*” New York State Bar Association – Intellectual Property Law Section, Philadelphia, PA, October 2011
- “*Key Issues in IP Due Diligence and Monetization;*” Special Assets Group Presentation, *Bank of America* – Charlotte, NC, April 2009
- “*Maximizing the Value of Intellectual Property Through the Auction Process;*” Asset Sales Committee Presentation, American Bankruptcy Institute – Washington, DC, April 2009
- “*Valuation, Damages and Expert Witnesses;*” CLE Presentation, Gibson, Dunn & Crutcher – Irvine, CA, June 2008
- “*Valuation, Damages and Expert Witnesses;*” CLE Presentation, Arent Fox, LLP – Washington, DC, April 2008
- “*Valuation, Damages and Expert Witnesses;*” CLE Presentation, Finnegan, Henderson, Farabow, Garrett & Dunner, LLP. – Washington, DC, April 2008
- “*Patent Valuation*” – Patent Law Institute – San Francisco, California; January 2007
- “*Intellectual Property: Damages and Lost Profits*” – National Association of Certified Valuation Analysts (NACVA) Annual Meeting – San Diego, California; December 2006 (Instructor)
- “*Leveraging the Brand: How Intellectual Property is Changing Turnarounds*” – Turnaround Management Association Annual Meeting – Orlando, Florida; October 2006
- “*Fundamentals of Intellectual Property Valuation*” – IP Licensing Summit – New York, New York; August 2006
- “*Perfecting Security Interests in Intellectual Property*” – HSBC and Phillips Lytle – New York, New York; March 2006
- “*Effective IP Litigation Support and Valuation*” – LeBoeuf, Lamb, Greene & MacRae, LLP – New York, New York; February 2006 (CLE Presentation)
- “*Opening the Black Box: IP Valuation, Securitization and Disposition Unveiled*” – The Commercial Finance Association – San Diego, California; November 2005
- “*Effective IP Litigation Support and The Use of Valuation Tools*” – Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP– Los Angeles, California; October 2005 (CLE Presentation)
- “*Corporate Identity Value: The Valuation of Goodwill and Trademarks*” – The American Bar Association Section of Intellectual Property Valuation – Arlington, Virginia; April 2005

- “IP Valuation and Licensing: Understanding The One To Facilitate The Other” – San Diego Telecom Council IPSIG & San Diego Chapter of the Licensing Executives Society – San Diego, California; February 2005
- “MasterCard Brand and Technology Valuation Framework” – Presented to the Brand Strategy Management Team – Purchase, New York; September 2004
- “360 Degree Brand Stewardship – Brand Valuation, Licensing/Leverage and Management” – Ogilvy & Mather – New York, New York; September 2004
- “Cross Border Transaction Issues in Electronic Commerce and Internet Licensing Transactions” – San Diego Chapter of the Licensing Executives Society – La Jolla, California; October 2003
- “Valuing and Leveraging of the Powerball Brand” – Presented to the Multi-State Lottery Association Board of Directors – New Orleans, Louisiana; September 2003
- “Identifying and Accurately Valuing IP and Intangible Assets” – GE Capital – La Jolla, California; June 2003
- “Intellectual Asset Management – Valuation of Intellectual Property and Intangible Assets” – San Diego Bar Association – La Jolla, California; December 2002
- “Intellectual Asset Management” – Gray Cary – San Diego, California; February 2002

PUBLICATIONS

- “Intellectual Property Valuation Techniques,” *The Licensing Journal*, October 2006
- “The Secured Lender - Second Installment,” *www.ipfrontline.com*, March 2006
- “The Secured Lender - Parts I & II,” *www.ipfrontline.com*, January 2006
- “The Impact of SFAS 141 & 142 on Intangible Asset Management,” *The Secured Lender*, November 2005
- “Intellectual Property Valuation: Context is Critical,” *The Secured Lender*, September 2005
- “Intellectual Property: Collateral for Securitization or Lending,” *The Secured Lender*, July 2005
- “Accurate IP Valuation in Multiple Environments,” *IAM - Intellectual Asset Management*, February/March 2004
- “Understanding the Value and the Risk,” *ABF Journal*, January 2004
- “What’s It Worth? Context Continuum,” *The Licensing Journal*, September 2002

LITIGATION SUPPORT / TESTIMONY EXPERIENCE (2005 – PRESENT)

RAVE WONDERLAND, INC., V. CITY LINGERIE, INC. d/b/a RAVELAND, et al., Case No. 2:19-cv-04546, United States District Court for the Central District of California, expert report on damages related to claims of trademark infringement, false designation of origin and false description, unfair competition and cyberspiracy (November 2020)

CWC DIRECT PARENT LLC, et al. (Assignors) V. CW ABC LLC (Assignee), Case No. 2020-0616-SG, In The Court Chanery for the State of Delaware, expert report on net orderly liquidation value of the Codlwater Creek IP portfolio to support the purchase price allocation upon the sale of the portfolio (October 2020).

JGX, INC., et al. V. JON HANDLERY, et al., Case No. 5:17-cv-00287, United States District Court for the Northern District of California, San Jose Division, expert report on damages related to trademark infringement and unfair competition claims (January 2020). **Deposition Testimony**

PAX WATER TECHNOLOGIES, INC., et al. V. MEDORA CORPORATION, Case No. 2:18-cv-09143, United States District Court for the Central District of California, Western Division, expert report on damages related to false advertising claims (October 2019) **Deposition Testimony**

ATELIER FASHION COMPANY, INC. V. AMIRI AND ASSOCIATES, et al., Case No. 2:18-cv-02308, United States District Court for the Central District of California, Western Division, expert report on damages related to trademark infringement claims (September 2018)

AOP VENTURES, INC. V. STEAM DISTRIBUTION, LLC, et al., Case No. 5:15-cv-01586-VAP(KKx), United States District Court for the Central District of California, Eastern Division (Riverside), expert rebuttal report on damages and brand valuation related to trademark infringement claims (November 2017) **Deposition, Hearing and Trial Testimony**

JOHN FOGERTY V. STUART COOK, et al., Case No. 2:15-cv-06069-FMO consolidated with 2:15-cv-06501 FMO, United States District Court for the Central District of California, expert rebuttal report on reasonable royalty damages and profit disgorgement related to trademark infringement claims (September 2016)

NEIL ZLOZOWER and BARRY LEVINE v. MÖTLEY CRÜE, INC., et al., Case No. 1:16-cv-06950, United States District Court for the Southern District of New York, expert report and rebuttal on actual damages, profit disgorgement and statutory damages related to copyright infringement claims (October 2017)

BIND THERAPEUTICS, INC., et al., Case No. 16-11084 (BLS), United States Bankruptcy Court for the District of Delaware, expert report on liquidation value of the BIND IP portfolio for Reply in Support of Motion of Debtors for Interim and Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, and 364 (i) Authorizing Use of Cash Collateral, (ii) Granting Adequate Protection, (iii) Scheduling a Final Hearing and (iv) Granting Related Relief (May 2016) **Deposition and Hearing Testimony**

GERAWAN FARMING, INC. V. TOWNSEND & TOWNSEND & CREW LLP, Case No. 10 cecg 03427, Superior Court of the State of California (Fresno), expert report on damages related to legal malpractice (February 2016)

PC SPECIALISTS, INC. D/B/A TECHNOLOGY INTEGRATION GROUP V. TRACE3, INC., ET AL., Case No. 01-14-0000-0872, American Arbitration Association, expert rebuttal report on damages associated with breach of contract claims (August 2015).

SPARK INDUSTRIES, LLC V. KRETEK INTERNATIONAL, INC., ET AL., Case No. 2:14-CV-05726, United States District Court for the Central District of California (Western Division), expert report and rebuttal on damages associated with breach of contract and trade dress misappropriation (October 2015).

STICKY HOLSTERS, INC. V. TAGUA LEATHER CORPORATION, ZEN DISTRIBUTORS GROUP II LLC, AND WAL-MART STORES, INC., Case No: 2:14-CV-00500-SPC-CM, United States District Court for the Middle District of Florida, Fort Myers Division, expert report on damages associated with trademark infringement and unfair competition (June 2015).

BAUSCH & LOMB INC. V. FAEZEH MONA SARFARAZI, M.D., Case No. 09-cv-6041, United States District Court for the Western District of New York, expert report on damages associated with breach of contract, patent infringement and trade secret misappropriation (June 2015).

THE PRESTWICK GROUP, INC. V. LANDMARK STUDIO, LTD., Case No: 2:14-CV-00731, United States District Court for the Eastern District of Wisconsin, expert report on damages associated with trade dress infringement and associated claims, (May 2015).

SKF USA INC. V. MRC GLOBAL INC. AND MCJUNKIN RED MAN CORPORATION, Case No. 13-250-LPS, United States District Court for the District of Delaware, expert rebuttal report on damages in the form of reasonable royalty, profit disgorgement, profit apportionment and lost profits associated with alleged trademark infringement (December 2014). **Deposition Testimony**

ENTERPRISE HOLDINGS INC, AS SUCCESSOR IN INTEREST TO VANGUARD CAR RENTAL HOLDINGS LLC V. EUROPCAR GROUPE S, A, Case No. 19552/TO, International Chamber of Commerce, International Court of Arbitration, expert report on trademark valuation, licensing analysis and customs and practices associated with alleged trademark infringement and breach of contract (September 2014).

MATTHEW RAMEY, ET AL. V. 10TH STREET ENTERTAINMENT ASSOCIATES, ET AL, Case No. BC 483732, Superior Court of the State of California for the County of Los Angeles Central District, expert damages report on the calculation of lost profits and profit apportionment associated with alleged breach of contract and related claims (February 2014).

BIBIJI INDERJIT KAUR PURI V. SHAKTI PARWHA KAUR KHALSA, TRUSTEE, ET AL., Case No. CV 11-9503 GW, United States District Court for the Central District of California, expert damages report and testimony on reasonable royalty damages and loss in trademark value associated with alleged trademark infringement (October 2013). **Deposition Testimony**

ACTIVE SPORTS LIFESTYLE USA, LLC dba ACTIVE RIDE SHOP V. OLD NAVY LLC, AND OLD NAVY (APPAREL) LLC and DOES 1-10, inclusive, Case No: SACV12-0572, United States District Court for the Central District of California, expert damages report and testimony on reasonable royalty, profit disgorgement, profit apportionment and loss in trademark value associated with alleged trademark infringement (July 2013). **Deposition and Trial Testimony**

IMAGINATION MOVERS, LLC V. RED LIGHT MANAGEMENT, INC., Case No. BC486838, Superior Court of the State of California, County of Los Angeles, Central District; expert report on damages stemming from theft of business opportunity and breach of fiduciary duty (June 2013).

CELS ENTERPRISE, INC., a New York corporation; and ROBERT GOLDMAN, an individual V. ROCK AND ROLL RELIGION, INC. and DEFIANCE USA INC., Case No. 2:09-cv-05258-R-PLA, United States District Court for the Central District of California; expert report and rebuttal on trademark infringement damages and analysis of confusion (October 2012).

APPLIED PROFESSIONAL TRAINING, INC. V. MIRACOSTA COLLEGE, TELESKILLS, LLC, dba AMERISKILLS, et al., Case No. 3:10-cv-1372, United States District Court for the Southern District of California; expert rebuttal report and testimony on trade secret misappropriation, copyright infringement damages and profit apportionment (February 2012). **Trial Testimony**

INTERNATIONAL ALOE SCIENCE COUNCIL, INC. V. FRUIT OF THE EARTH, INC., Case No. 8:11-cv-02255-DKC, United States District Court for the District of Maryland; expert rebuttal report on trademark infringement damages and profit apportionment (February 2012).

HALLMARK HARDWOODS, INC. V. OMNI WOOD PRODUCT, LLC, ET AL., Case No. 2:10-cv-05896 SJO (JCGx), United States District Court for the Central District of California; expert report and testimony on trademark infringement damages (October 2011). **Deposition Testimony**

RKS DESIGN, INC., ET AL V. STEVE BURTON, ET AL., Case No. LC 090275, Superior Court of the State of California, County of Los Angeles, Northwest District.; expert report and testimony on trademark infringement damages (August 2011). **Deposition Testimony**

IXL LEARNING, INC. V. MATTEL, INC. AND FISHER-PRICE, INC., Case No. 10-CV-1902-JF (HRL), United States District Court for the Northern District Of California, San Jose Division; expert report and rebuttal on the calculation of reasonable royalty damages and trademark valuation associated with alleged trademark infringement (April 2011).

MILLER INTERNATIONAL, INC. V. CLINCH GEAR, INC., ET AL, Case No. 10-CV-01167 WDM (CBS), United States District Court for the District Of Colorado; expert report on the likelihood of confusion associated with alleged trademark infringement (January 2011).

AURORA WORLD, INC. V. TY, INC., Case No. CV09-08463 MMM (Ex), United States District Court, Central District of California, expert report and rebuttal on the calculation of lost profits and reasonable royalty damages associated with alleged trademark infringement (October 2010 thru April 2011).

ATLANTIC INERTIAL SYSTEMS, INC. V. CONDOR PACIFIC INDUSTRIES OF CA, INC., ET AL, Case No. 08-02947 JHN (PJWx), United States District Court, Central District of California, expert report and rebuttal on the calculation of lost profits associated with alleged trademark infringement (March 2010 – April 2011).

GEN. C.E. YEAGER v. CINGULAR WIRELESS LLC, ET AL, Case No. 07-02517, United States District Court, Eastern District of California; expert rebuttal report and opinion on damages (August 2009).

C.J. JACKSON III P/K/A 50 CENT v. TACO BELL CORP., Case No. 08-06545, United States District Court, Southern District of New York; expert report on rights of publicity damages and false endorsement (July 2009).

WOODY ALLEN v. AMERICAN APPAREL, INC.. Case No. 08 CV–3179, United States District Court, Southern District of New York; expert report on rights of publicity damages and false endorsement (May 2009).

IRONWOOD CAPITAL LTD. v. IRONWOOD CAPITAL MANAGEMENT ET AL.- Case No. 07 CV 1624, United States District Court, District of Connecticut; expert report on trademark infringement damages (April 2009).

CONSTELLATION MANAGEMENT GROUP, INC., ET AL. V. CVS PHARMACY, INC., Case No. 13 181 Y 00408 09, American Arbitration Association; expert report on the calculation of damages stemming from breach of contract (2009).

SOCIÉTÉ DES BAINS DE MER ET DU CERCLE DES ETRANGERS A MONACO v. PLAYSHARE, ET AL. Case No. 07-CV-4802, United States District Court, Southern District of New York; expert report on trademark infringement damages (February 2009).

GENERAL MILLS, INC. V. KELLOGG CO. AND KRAFT FOODS GLOBAL, INC., Case No. 06-cv-03686 (JMR-JSM), United States District Court, District of Minnesota; expert report on intellectual property valuation (2008).

SPANSKI ENTERPRISES, INC. ET AL. v. TELEWIZJA POLSKA, S.A. ET AL. – Case No. 07-CV-0930, United States District Court, Southern District of New York; expert report on intellectual property customs and practices, valuation, and damages (June 2008).

ADIDAS AMERICA, INC. ET AL v. PAYLESS SHOESOURCE, INC., Civil Document for Case No: 01-1655-KI, United States District Court (District of Oregon); expert report regarding establishment of royalty rates for the use of trademark and trade dress, calculations of reasonable royalty damages (April 2008).

CYCLONE USA, INC. v. LL&C DEALER SERVICES, LLC, Docket No. CV-03-0992 WMB (JWJx), United States District Court for the Central District of California; expert report and testimony regarding calculation of damages (February 2006 – March 2008). **Trial Testimony**

BIG FISH GAMES, INC. v. IWIN, INC., ET AL, Case No. C07-0718 Jcc US District Court, Western District Of Washington; expert report on valuation of trade secret misappropriation (March 2008).

PHARMA BASE S.A. V. HVL, LLC, Case No. 14 433/EBS International Chamber of Commerce, International Court of Arbitration, expert report and rebuttal on trademark infringement damages (March 2008).

VERIZON, INC. AND VERIZON WIRELESS, INC. v. OVERSEE.NET, ET AL, Case No. 07-1732, U.S. District Court, Central District of California; expert rebuttal report regarding intellectual property damages (October – November 2007).

ADJUSTMENT OF RATES AND TERMS FOR PREEXISTING SUBSCRIPTION SERVICES AND SATELLITE DIGITAL AUDIO RADIO SERVICES, Docket No. 2006-1 CRB DSTRA, Copyright Royalty Board, Library of Congress, Washington, D.C.; expert rebuttal report and testimony regarding the apportionment of compensation paid to marquee celebrities for brand value, endorsement/sponsorship value and exclusivity value components (August - October 2007). **Hearing Testimony**

LUPPEN HOLDINGS, INC. V. PITNEY BOWES, INC., Case No. 98-5336-RJK (CWx), United States District Court, Central District of California; expert report regarding trademark infringement damages (2007).

HAMBRECHT WINE GROUP, L.P. D/B/A BELVEDERE WINERY, L.P. v. MILLENNIUM IMPORT, LLC., Case No. C-5 4625, United States District Court, Northern District of California; expert report provided rebuttal discussion and opinions in the area of intellectual property valuation and damages calculations (December 2006).

WORLD TRIATHLON CORPORATION, INC. v. DAWN SYNDICATED PRODUCTIONS ET AL., Case No. 8:05 CV-983-T27 EAJ, United States District Court Middle District of Florida, Tampa Division; expert report related to intellectual property customs and practices, valuation, and calculation of damages (July 2006).

RICHARD BACH AND RUSSELL MUNSON v. FOREVER LIVING PRODUCTS U.S., INC., ET AL., Case No. C05-0970P, United States District Court for the Western District of Washington at Seattle; expert report related to valuation of damages for the infringement of trademarks and copyrights (April 2006).

DON FELDER v. EAGLES LTD., ET AL., Case No. BC244814, Superior Court of the State of California for the County of Los Angeles, Central District; expert report prepared for the purpose of, and for use in, mediation as it related to the fair market value of the damages stemming from wrongful termination of employment and breach of fiduciary duty – active participation in mediation providing qualitative and quantitative analysis to provide mediator with a framework for resolution of dispute over trademark damages (July 2006). **Mediation Testimony**

DIGITAL ENVOY INC. v. GOOGLE INC., Case C 04 01497 RS, U.S. District Court of the Northern District of California, San Jose Division; consulting expert regarding calculating trade secret misappropriation damages (April 2006)

COLLINS & AIKMAN CORPORATION, ET AL., Case No. 05-55927 (SWR), United States Bankruptcy Court, Eastern District of Michigan, Southern Division; expert report on the valuation of the debtors' portfolio of intellectual property, including, trademarks, patents, copyrights and trade secrets (2006).

PRECISION REPLACEMENT PARTS CORP. v. AUTO GLASS COMPONENTS, INC., Docket No. 04-CV-566L, United States District Court for the Western District of Washington at Seattle; expert report, expert rebuttal report and testimony regarding calculation of loss in business value and trademark infringement damages (August 2005). **Deposition Testimony**

FLEETWOOD ENTERPRISES, INC. AND FLEETWOOD FOLDING TRAILERS, INC., PLAINTIFFS AND COUNTERCLAIM DEFENDANTS v. THE COLEMAN COMPANY, INC., Case No. 03 CV 2029, Eighteenth Judicial District Court, Sedgwick County, Kansas; expert report regarding breach of contract, customs and practices of holding (and other types of shared control or "parent") companies, and the use of trademarks in advertising and sales materials (August 2005).

JIMMY DEAN v. SARA LEE CORPORATION, Civil Action No. 5-04CV0039-C, United States District Court, Northern District of Texas Lubbock Division; expert report regarding the valuation of compensation paid for the acquisition of trademarks and rights of publicity (July 2005).

CACHE LA POUFRE FEEDS, LLC v. LAND O'LAKES, INC. ET AL.; Civil Action No. 04-D-329 (CBS); U.S. District Court District of Colorado; expert rebuttal report designed to identify and quantify errors made in estimating damages resulting from the alleged infringing actions of Defendant, specifically addressing the reasonable royalty determination, and the potential award of damages for the cost of corrective advertising (July 2005).

LAWRENCE PETER BERRA AKA YOGI BERRA v. TURNER BROADCASTING SYSTEM, INC., 1:05-cv-02233-RJH - NY Supreme Court No. 05/600339, Supreme Court of the State of New York, County of New York; expert report regarding calculation of damages stemming from the valuation of rights of publicity (July 2005).