THE Witness Chair

Leading-edge Ideas for CPAs Providing Litigation and Dispute Resolution Services

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Experts Working Together in a Patent Case: A Checklist for Success

by Dominic M. Persechini

Over the last decade, the bar to which damages experts are held in calculating damages for patent cases has been raised. Changes in case law require that those seeking to collect damages, or defend damages, in actions involving patent infringement must be rigorous in their analyses. Gone are the days when "rules of thumb" or broad surveys of patent values could serve as yardsticks or guideposts to damages experts.

This enhanced rigor and scrutiny of damages analyses makes it more important than ever that damages experts and technical experts work together closely on patent cases. On virtually every patent case, damages and technical experts will need to grapple with issues relating to:

1. The point of novelty of the invention;
2. The smallest saleable patent practicing unit (SSPPU);
3. Non-infringing alternatives;
4. Apportionment.

At a high level, any patent case has two-parts: liability and damages. Technical experts traditionally concerned themselves with the liability aspects of a case, validity and infringement (or lack thereof), while damages experts concerned themselves with, unsurprisingly, damages. This makes perfect sense.

Damages experts often have some familiarity with the technology at issue in a case, but, by definition, are not technical experts and therefore should not be opining to issues of validity and infringement.

Technical experts may have some sense of the economic value of the technology, but usually don't have the requisite experience or familiarity with the necessary analytical tool set to opine on issues of damages.

However, this does not mean the experts do not need each other. A damages perspective can be particularly useful in aspects of the liability part of a case; and, more often than not, technical expertise is critical to the damages portion of an action. What this means is that the experts and the teams supporting them should not be working independently of each other only to converse and convene at the 11th hour before written reports are due.

The Point of Novelty

As a damages expert, I appreciate that a lot of time and energy can be spent on a case before I become involved. Yet, when I ask, "So, what is the invention?," I often get an answer that is neither clear nor concise.

To be sure, by the time expert reports are due, a succinct description has been developed. However, giving thought as early as possible to what the point of novelty is for the technology in question can only help the damages aspect of the case and perhaps steer the entire case to a more fruitful outcome.

Having the technical expert distill down to a few sentences, as early as possible in the case, what the technology is about is beneficial for at least two reasons: It helps the damages expert direct research and analyses as the damages team combs through discovery, and, it can shed light on whether a case has the economics to move forward irrespective of any liability considerations.

As a damages expert, a crisp understanding of the technology at issue in a case is useful to develop theories and analyses as to how to value that technology given the facts of a case. With a general, but not crisp understanding, it is difficult to properly give weight as to which documents produced may be useful to damages and which documents may be of little use.

From the damages perspective, the collection and analysis of data is much more efficient if the technical expert has already succinctly defined the specific technology. This can translate to reduced fees for the client and a stronger damages report.

Related to this efficiency is the notion of "is the case worth it?" Is this technology generating sufficient economic returns so that expensive litigation makes sense if liability is proven? Of course, it is better to make this determination as early as possible; that is only possible if the damages expert and the technical expert have an early conversation as to what is the point of novelty for the patented technology.

The SSPPU

The SSPPU represents the piece of a multicomponent product that is accused of practicing the technology covered by the patent or patents-in-suit. With the exception of cases in the pharmaceutical industry, the majority of cases that a damages expert contends with are those where only a piece

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Section Action

Business Valuation

by Thomas D. Collins, CPA

For years, business appraisers have valued companies by discounting their future cash flows based on the cost of capital data from Ibbotson Associate's (Ibbotson) Stocks, Bonds, Bills and Inflation (SBBI). This data included annual rates of returns for stocks, bonds, bills and inflation going back to 1926. This cost of capital data was gathered from the Center for Research in Security Prices market data return set.

The main providers of this cost of capital data have changed from Ibbotson to Morningstar to Duff & Phelps. Then, this SBBI data was divided into two books, a *Classic Yearbook* and a *Valuation Handbook–Guide to Cost of Capital (Valuation Handbook)*. After years of buying the printed *Classic Yearbook*, I started purchasing the printed *Valuation Handbook*, which provides business appraisers with more granular "decile" rate of return information for the different-sized publicly traded companies and provides rates of return for different industries.

Duff & Phelps provides the old *Valuation Handbook* information by online subscription only. This new online Navigator is powerful and allows business appraisers to choose from many cost of capital options. It also explains the source of the cost of data and the many options available to calculate a company's cost of capital.

For 2019, Duff & Phelps still offers the *SBBI Classic Yearbook* information in print. I use both the online Navigator valuation version of the SBBI data and the print version of the classic SBBI information. Visit *duffandphelps.com/insights/publications/cost-of-capital* for its current SBBI products.

A new source for the cost of capital data—"Cost of Capital Professional"—is also available from Business Valuation Resources. I have not used this service, but it also seems to have a lot of options. Visit *bvresources.com/products/cost-of-capital-professional* for more information.

I look forward to discussing this issue with you at upcoming BV section meetings

Thomas D. Collins, CPA, ABV, CFE *is Business Valuation Section chair and owner of Collins Forensic and Valuation Services in Sacramento.*

Economic Damages

by Ken Rugeti, CPA

I have seen a lot of changes in our field over the past 23 years. As incoming chair of the Economic Damages Section, I am excited to share what I have learned and contribute to the advancement of our profession.

Daubert, Sarbanes-Oxley, *Sargon* and *Sanchez*, along with electronic discovery, the replacement of cardboard boxes with file sharing sites and continued advancement of data analytics have reshaped our work to bring new challenges and opportunities.

Many of you have heard the phrase "a mile wide and an inch deep" used to describe the CPA Exam. In other words, one must be knowledgeable about a wide variety of topics, but only at a surface level. I have used the inverse phrase "an inch wide and a mile deep" to describe cases that involve a deep dive into the theory of an otherwise narrow issue (e.g., inventory accounting).

Allow me to introduce a new phrase: "The Cubic Mile."

The Cubic Mile is the product of ever-expanding case law and financial theories, along with the ability to collect and analyze tremendous volumes of data. The Cubic Mile is what happens when we have the ability to analyze a wide variety of issues at considerable depth.

And it is both a blessing and a curse.

The blessing is that it offers the ability to consider far more information than we could before at increased levels of precision. How many of you have worked on cases where the limits of hard copy discovery and data entry forced sampling of records as opposed to comprehensive analysis of an entire population of data? This limitation is hardly present in the era of the Cubic Mile as the courts have embraced electronically stored information and our clients are looking to live data to fulfill our information requests as opposed to pulling hard copies of computer-generated reports from offsite storage.

The curse of the Cubic Mile is its potential to lose the forest in the trees—you can get so caught up in the weeds of discovery and voluminous data that it can become difficult to form or articulate an opinion that is easily comprehensible to your average judge or jury. Worse yet, you may miss the point of the case.

Let us embrace the Cubic Mile, while at the same time protect ourselves and our clients from its pitfalls. When all is said and done, our finished product should be the reliable analysis of relevant issues.

Ken Rugeti, CPA, ABV, CFF *is Economic Damages Section incoming chair and Managing Principal of Rugeti & Associates, an Orange County-based forensic accounting firm.*

Family Law

by Darlene L. Elmore, CPA

In September, the California Courts of Appeal in *In re Marriage of Morton* (2018) 27 Cal App 5th 1025, held that income tax refunds should be included as income for purposes of child support. But before you change the way you have been calculating support, let's take a closer look at the case.

As with most cases, the devil is in the details. At trial, Mr. Morton argued that his cashflow was significantly less than his taxable income due to phantom income from an S corporation. Phantom income is when the taxable income from a passthrough entity does not equal the distributions received from the entity. To adjust for the phantom income, the trial court utilized his take-home income, calculated by taking his net wages (after payroll taxes and withholding) plus actual funds received by husband from the S corporation.

The trial court did not include in husband's income tax payments that were made by the S corporation on behalf of husband directly to the federal and state taxing authorities. The amount calculated by the court was then input into DissoMaster as other nontaxable income. When husband received a tax refund, the trial court did not include the refund as income for support.

Per Family Code Section 4059(a), "State and federal income taxes shall be those actually payable (not necessarily current withholding) …." The trial court utilized actual withholding and estimated payments to arrive at husband's net disposable income; therefore, it did not take into account what was "actually payable" per FCS 4059(a).

The Court of Appeal held that since husband's income was reduced by his

estimated payments, his refund from overpayment of taxes should have been included as income for child support.

Had the trial court input husband's taxable income into DissoMaster, the result would have correctly taken into account income taxes "actually payable." Only the adjustment for the phantom income (the difference between taxable income and actual distributions from the S corporation) should have been input as nontaxable income.

This case has the potential to be miscited. The trial court calculated income for support in a non-typical way and arrived at an erroneous result. It is important to remember that including tax refunds as income for support would only be applicable in very specific cases. For most cases, income tax refunds will continue to not be included in support calculations.

Darlene L. Elmore, CPA, ABV, CFF *is Family Law Section chair and has a forensic accounting practice in Santa Rosa.*

Fraud and Financial Investigations

by Tim Sherman, CPA

On Nov. 2 the SEC Enforcement Division issued its annual report on its activities for the year ending Sept. 30. In fiscal year 2018, the Enforcement Division brought 821 actions, an increase of 9 percent from 2017. The Enforcement Division breaks its actions into three types: standalone (490), follow-on (210) and deregistration of delinquent SEC filers (121).

Actions in all three categories increased in 2018 from 2017, including a 10 percent increase in standalone enforcement actions. Similarly, the amount of penalties and disgorgements increased 4 percent to $3.95 billion (penalties increased 73 percent to $1.4 billion, while disgorgements decreased 15 percent to $2.5 billion).

The top three types of standalone actions concerned securities offerings (25 percent), investment advisory issues (22 percent), and issuer report/accounting and auditing (16 percent). The majority of standalone actions (72 percent) involved charges against one or more individuals.

Fiscal year 2018 was the first year the Enforcement Division's Cyber Unit was fully operational. At the end of 2018, it reported more than 225 ongoing cyber related investigations, indicating more should be expected in fiscal year 2019. Similarly, cybersecurity is a priority for 2019 for the SEC Office of Compliance Inspections and Examinations (OCIE).

In December, the OCIE announced its 2019 examination priorities: digital assets, cybersecurity and protecting retail investors (e.g., issues related to fees, expenses and conflicts of interest). These priorities are consistent with the SEC's 2018-2022 Strategic Plan released in October.

The Enforcement Division anticipates substantial litigation resources will be required to address approximately 200 administrative procedures, which had been stayed following the decision in *Lucia v. SEC* in June 2018. In *Lucia*, the Supreme Court ruled that the appointment of the SEC's administrative law judges violated the U.S. Constitution's Appointment Clause. The stay was lifted in August and the SEC reassigned the stayed administrative proceedings.

View the Enforcement Division's 2018 Annual Report at sec.gov/files/enforcement-annual-report-2018.pdf. The OCIE's Examination Priorities is at *sec.gov/files/OCIE%202019%20Priorities.pdf*. Find the SEC's 2018-22 Strategic Plan at *sec.gov/files/SEC_Strategic_Plan_FY18-FY22_FINAL_0.pdf*.

Tim Sherman, CPA, ABV *is Fraud and Financial Investigations Section chair and a Senior Director in the Forensic Accounting & Advisory Services practice at FTI Consulting, Inc., in Los Angeles. The views expressed here are those of the author and not necessarily the views of FTI Consulting, Inc. or its management, subsidiaries, affiliates or its other professionals.*

MessageFromtheChair

by Greg Regan, CPA

The chair seat has been hot during the first few months of my occupancy. Right out of the gates, California took the lead in responding to the AICPA's recent decision to open eligibility for the Accredited in Business Valuation (ABV) credential to non-CPAs. You can read the letter at *calcpa.org/ABVLetter*.

Over the past 24 months, there has been a lot of hand wringing over the topic of the implications of the *Sanchez* opinion, which heightens the need for experts to coordinate with counsel in advance of trial to ensure that case-specific information is admitted at trial. In turn, the expert can safely rely on that information. The FSS Steering Committee is working on a quick-reference guide so California practitioners can assist counsel in their preparation for trial related to this hearsay issue. Look for this publication in the coming months.

The FSS Steering Committee is also organizing a task force to explore the impacts of California's new data privacy law. What new data privacy law you ask? Well, be sure to attend one of our upcoming meetings on this topic (hopefully this May).

In other exciting news, Anthony Pugliese was recently announced as the incoming CEO of CalCPA. He is a friend to the forensic and valuation services community; in fact, during his stint as AICPA COO, he oversaw the activities of the FVS committees.

At our FSS Steering Committee meetings, we've added a new agenda item: Tricky Questions. The first question dissected possible responses to the question: Is your opposing expert qualified? As you can imagine, responses varied. The general takeaway, however, was think carefully about this question. Obviously, via this question avenue, opposing counsel is attempting to disarm future attacks on the admissibility of the opposing expert's testimony. If you are interested in the full dialogue, please attend the Sections meetings!

As always, feel free to reach out with issues on your mind. Is there a topic that you would love to see presented at an upcoming CalCPA meeting? Do you have a great topic or speaker in mind that CalCPA practitioners should be knowledgeable about? If so, shoot me an email or give me a call. We're here to work together to continue this great CalCPA tradition.

— **Greg Regan, CPA, CFF** *is a partner at Hemming Morse LLP. You can reach him at regang@hemming.com.*

Keepin' It Legal

Marriage of Macilwaine: A Waterfall Decision of at Least Two Tiers

by Lorna Mouton Riff, CPA

Last August, the Appellate Court published its decision in *In re Marriage of Macilwaine* 18 DJDAR 8490 (8-22-18) (DCA 1).

For the first waterfall tier, the court was asked to determine how and when stock options factor into a supporting parent's gross income for child support. The second waterfall tier addressed whether the trial court applied the correct legal standards in Family Code Section 4057 (a)(3) in determining the "needs of the children," and whether the trial court provided the explanatory findings as required by Family Code Section 4056 (a).

(Use of the phrase "needs of the children" or "the children's needs" throughout this article refer to this code section.)

Factual Overview

The incipient case was John Macilwaine's Request for Order (RFO) modifying child support and requesting that, for purposes of calculating child support, his earnings be capped at $1.2 million per year for the four minor children. Subsequently, in his trial brief, Macilwaine amended the amount of the cap upward to $1,877,829. The motion was filed in August 2014, approximately 18 months after the Marital Settlement Agreement (MSA) was entered on Dec. 27, 2012.

The parties separated in 2010. In June 2012, Macilwaine became chief technology officer for Lending Club when it was a privately held startup company. Between the date of separation in 2010, and his RFO filing in 2014, his annual earnings increased from less than $800,000 to almost $2.6 million as a result of his employer-granted stock options. Lending Club had its initial public offering in December 2014.

Pursuant to the parties' MSA, Macilwaine was to pay monthly base child support of $5,200 on his annual base salary of $300,000, plus 14 percent of his earnings over his annual base salary as "bonus" child support to Patricia Macilwaine. The MSA provided that John and Patricia would equally split the cost of certain agreed-upon expenses for the children, including education, medical and extracurricular activities. The four children ranged in ages from 4 to 15; three of the children were in each parent's care approximately 50 percent of the time and no percentage is given for the fourth child.

As a result of the exponential increase in John's annual earnings, by 2014 he was paying approximately $32,000 per month in child support. John contended that he was an extraordinarily high earner and he asserted that, because of the considerable spousal support Patricia was receiving and her substantial assets, the requested cap was more than adequate to cover the children's needs. He further argued that this was in the children's best interests and they would not experience a reduced standard of living.

With regards to the stock options and when and whether they constitute income for child support, John asserted that he was subject to certain insider trading rules and was not free to sell the stock, even though the options vested.

Note: Facts concerning the spousal support aspects of the case are not being discussed here, as they were not impacted by the RFO or the Appellate decision. Spousal support was already capped at $1.2 million.

Trial Court's Order and Statement of Decision

As to when the options are to be considered as income, the trial court concluded that the options be treated as income at vesting "where necessary to assure the child's needs are met."

As to the children's needs, the court found that John was an extraordinarily high earner and the children's needs can be met if the court limits John's income for child support at $2 million per year. The court "reverse engineered" the children's living expenses and needs. It adopted an "exercise and sale" rule: only options exercised and sold would be included in income.

Claw-back and claw-forward rules were applied whereby annual income in excess of the $2 million would carry forward, or back, to years where income was less than $2 million.

Appellate Court's Ruling

The court of appeal reversed and concluded, as to when the employer-granted stock options must be recognized as income, *subdivision (a)(1) of section 4058 must be construed to include all compensation that has been conferred upon and is available to the employee. At that point, the available compensation from stock options (the market price less the "strike price") should be included in gross income, regardless of whether the parent elects to exercise the option and sell shares of stock.*

In the second part of its decision, the Appellate Court determined that the incorrect legal standards were used in determining the "needs of the children," and that the trial court failed to provide the requisite explanatory findings. This issue has been remanded back to the trial court to recalculate guideline support to include the aforementioned income. The trial court is to independently ascertain the needs of the children based on John's financial circumstances and "station in life," not historical expenditures.

Moving Forward: Treating Income From Unexercised Options

The court's decision is that the income from the stock options is to be included as income to John as they vest, irrespective of whether actually exercised or not. This ruling begs the question of what happens in the subsequent years until the options are exercised.

Year one, the vesting year, may simply be the net difference between the market price on the vesting date, less the strike price. Let's assume for this discussion, it is a positive number. John pays the 14 percent on this amount.

Forward to year two, the options are still unexercised and the market price per share is

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AICPA Alert

by Travis Armstrong, CPA

Last December, the AICPA FVS Executive Committee (FVSEC) released the proposed new standard for engagements of forensic services titled, "Statement on Standards for Forensic Services No. 1 (SSFS 1)," that will apply to all AICPA members and member firms. The proposed standard is available on the AICPA's website, *aicpa.org/interestareas/forensicandvaluation/resources/standards/exposure-draft-statement-on-standards-for-forensic-services.html*.

The proposed standard provides a two-prong applicability test based on the purpose of the services being provided, rather than the nature of the services. Specifically, the proposed standard would apply to professional services being provided for either a "litigation" or an "investigation," as defined within the proposed standard.

The FVSEC sought comments from members and stakeholders to Feb. 28.

Additionally, in the fourth quarter of 2018, the AICPA FVS published part two of its 2015 Reasonable Certainty Practice Aid, titled "Attaining Reasonable Certainty in Economic Damages Calculations: Revenues, Costs, and Best Evidence."

This practice aid uses relevant case law to explore the following topics with respect to meeting the reasonable certainty standard: projections of revenues and growth rates in economic damages calculations; the identification and determination of costs in lost profits calculations; and the types of documents, methodologies, or information that judges have found to establish best evidence.

The practice aid, along with all others currently in circulation, are available to members of the AICPA FVS Section and can be found by logging in at *aicpa.org/interestareas/forensicandvaluation/resources/fvs-online-professional-library.html*.

In November, the AICPA held its annual FVS Conference, which included presentations covering valuation, litigation/expert witness, fair value measurement, family law and emerging technologies. Emerging technologies received increased focus, which included sessions on cybersecurity, big data and Blockchain.

This year's FVS Conference will be held Nov. 4-6 in Las Vegas. Additionally, the ABV and CFF review courses will precede the conference on Nov. 2-3 and Expert Witness Skills Workshop will follow the conference on Nov. 7-9.

Travis Armstrong, CPA, CFF, CFE *is a partner with Hemming Morse, LLP, in San Francisco. He serves on the AICPA's FLS Committee and chairs its Litigation Process Task Force.*

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continuing to rise. Is the incremental increase in the value from the prior year to the current year to be included as income for the current year's percentage calculation? As long as the market price is greater than the strike price, this may be the easier question to resolve.

However, what happens when the market price drops several years after the vesting date and the options are under water; the market price is less than the strike price? Is there to be an adjustment, or recoupment, for the prior year's payment of percentage support based on a positive value of the options on the vesting date?

These unanswered questions by the Court of Appeal will surface going forward.

Remanded Issue of Recalculating Guideline Child Support

In its decision on this issue, the Appellate Court determined that the trial court erroneously relied on Patricia's historical spending to determine the needs of the children.

In its decision, they cite *Hubner, supra, 94 Cal.App.4th at pp. 178, 187*: "that children are entitled to the standard of living attainable by the parent's income," and *Y.R. at p. 984 and Cheriton, supra, 92 Cal.App.4th at pp. 284-285*: "a child of extraordinarily wealthy parents is entitled to, and therefore 'needs' something more than the bare necessities of life."

The court referenced *In re Marriage of Kerr, supra, 77 Cal.App.4th at p. 96*: "We have no reason to believe the court viewed John's income any differently for purposes of evaluating his 'current station in life' and his ability to provide for his children."

Further, citing *Hubner, supra, 94 Cal. App.4th at p. 178*: "The statement of decision does not examine John's financial circumstances and expresses no opinions regarding the standard of living 'attainable' with his income and wealth."

Lastly, they cite *Ibid; White v. Marciano (1987) 190 Cal.App.3d 1026, 1032*: "The standard of living to which a child is entitled should be measured in terms of the standard of living attainable by the income available to the parents, rather than by evidence of the manner in which the parents' income is expended and the parents' resulting lifestyle."

The Appellate Court determined that the trial court focused on the lifestyle John currently provides to his children and his historical spending on them; this, they stated, is the wrong legal standard.

A Consistent Appellate

There are other older cases that consistently mirror the theme of those cited above.

- *Bailey v. Superior Court (1932) 215 Ca. 548, 555*: "The father's duty of support for his children does not end with the furnishing of mere necessities if he is able to afford more."
- *Kyne v. Kyne (1945) 70 Cal.App.2d 80, 83*: "(a) child, legitimate or illegitimate, is entitled to be supported in a style and condition consonant with the position in society of its parents."
- *In re Marriage of Catalano (1988) 204 Cal. App.3d 543,552*: "a child's need for more than the bare necessities . . . varies with the parent's circumstances. Accordingly, where the supporting parent enjoys a lifestyle that far exceeds that of the custodial parent, child support must to some degree reflect the more opulent lifestyle even though this may, as a practical matter, produce a benefit for the custodial parent."

The Appellate Court's decision in *Macilwaine* is not the end of the story. Most of us who work in family law have learned that the unanswered questions in the decision are the beginning of another waterfall cascade.

Lorna A. Mouton Riff, CPA, CFF *is the Family Law Section vice-chair and Director of Forensic and Financial Services at CBIZ MHM, LLC in Los Angeles.*

HAPPENINGS

FORENSIC SERVICES SECTION 2019-20 MEETING DATES

All Sections Joint Meeting	May 17 Oct. 25	LAX Renaissance SFO Doubletree
Business Valuation	Aug. 15 Feb. 6	OAK Holiday Inn South
Economic Damages	Feb. 19	South
Family Law	Aug. 16 Feb. 7	OAK Holiday Inn South
Fraud and Financial Investigations	Feb. 20	South
CalCPA Education Foundation Family Law Conference	Oct. 17 Oct. 18	LAX East Bay/Webcast

Register online: *www.calcpa.org/fss.* | For more information, call (818) 546-3502.

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or component of a much larger product is accused of infringing the patented technology.

This SSPPU must be identified as part of the infringement case because many courts are holding that economic damages must be limited to only those flowing from the SSPPU.

While the SSPPU is determined by the technical expert, this determination has critical ramifications for the damages expert. What are the costs associated with the SSPPU? What are the economic benefits associated with the SSPPU? Are there non-infringing alternatives to the SSPPU? A damages expert can only begin to ask questions like these after the technical expert had defined the SSPPU.

Furthermore, as more thought is given to the economic consequences of defining the SSPPU, it may bring to light facts that call for expanding the patent read beyond what was originally thought to be the smallest saleable patent practicing unit. This back and forth between the technical and damages teams impacts both the liability and damages parts of a case; therefore, the earlier this back and forth begins, the better.

Non-Infringing Alternatives

In a patent case, the availability of non-infringing alternatives can be a critical component to a damages analysis. Whether technological non-infringing alternatives are available is the purview of the technical expert and, therefore, the damages expert relies on the technical expert's input. This input can be the basis for a damages analysis for either the plaintiff or defendant.

For example, if switching to a technological non-infringing alternative would mean incurring greater costs for the alleged infringer, this increase in costs can be a benchmark on which the plaintiff can predicate its damages analyses. Likewise, if the change in economic benefits from the switch to a technological non-infringing alternative is less than the plaintiff's calculation of a reasonable royalty, this can be the basis for the defendant's damages analysis.

In either event, the damages expert and the technical expert need to work closely to first define what, if any, that alternative is so that the damages expert can then ascertain the economics surrounding that alternative. Moreover, this work needs to be done as early as possible because some courts have strict deadlines regarding disclosing any possible non-infringing alternatives; any ideas that arise closer to expert report deadlines may not be accepted by the court if they are past an earlier cut-off date.

Apportionment

Apportionment continues to be the hot topic in patent damages. With respect to the work between technical and damages experts, the technical expert can give the damages expert two inputs to help solve the apportionment problem:

1. What proportion does the patented technology represent of all of the technology in an accused product?
2. What are the relative technological values of the multitude of inventions in an accused product?

The damages expert can then use these inputs as part of an economic analysis. In fact, I was involved in the recent *TecSec, Inc. v. Adobe, Inc*. trial in which the damages analysis accepted by the court was based on a technological apportionment of the accused product.

Again, it is important that the damages and technical experts begin discussing apportionment early as this analysis will likely have to be included in a technical expert's opening report. Moreover, if a damages analysis is to be based on a technological apportionment, then the damages opinion will rise or fall with the robustness of the technical expert's apportionment opinion.

The four areas of inquiry outlined in this article are, in my view, areas in which damages and technical experts can be most effective in delivering value to their clients by working together to fashion strong and impactful opinions.

Dominic M. Persechini, MBA *is a Senior Consultant with LitiNomics, Inc. in Walnut Creek.*

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Editor
Susan Bleecker

Associate Editors
Leslie O. Dawson | Emily Ku

Section Chair
Greg Regan

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Business Valuation	Thomas D. Collins
Economic Damages	Travis Armstrong
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