

KRISTINA S. SHAMPANIER, PH.D.

Vice President

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Dr. Shampanier applies marketing research methods, such as surveys and experiments, to litigation. She has been retained as an expert in several cases, including: (i) an employment litigation, where she evaluated on behalf of the defendant, a fast-food chain, the possibility of interviewing class members and reviewed the opposing expert's approach; (ii) a health care case, for which she submitted a rebuttal report, opining on a survey-like study, and was deposed; (iii) a trademark infringement matter considered by the Trademark Trial and Appeal Board of the U.S. Patent and Trademark Office, for which she designed and fielded a confusion survey; and (iv) a false advertisement case considered by the National Advertising Division of the Council of Better Business Bureaus, for which she submitted three expert reports opining on the merits of a product test.

More broadly, Dr. Shampanier has designed and evaluated surveys and online, lab, and field experiments and conducted data analyses for class certification, liability, and damages phases of litigation. These include antitrust, patent, trademark, and trade dress infringement; false advertising; and consumer safety cases. She has also applied these methods on non-litigation consulting projects and in academic settings. Dr. Shampanier has managed litigation projects and served as a consultant on numerous matters for a wide variety of clients, including Microsoft, Intel, DIRECTV, AT&T, a major luxury consumer goods company, and a major online retailer. In addition, she has provided marketing research and analysis in cases against a major online consumer services provider, a major credit card company, and major vehicle manufacturers, among others.

Dr. Shampanier has extensive experience with both affirmative and rebuttal analyses. She has supported clients in data production; supported expert witnesses in their preparation of reports and testimony and at depositions; and supported counsel in preparation for depositions and at depositions of opposing experts. Dr. Shampanier has presented and published in the fields of behavioral and experimental economics and in mathematics, and she is an "Ambassador" for the journal *Marketing Science*, a role in which she helps increase awareness of leading-edge academic research among practitioners.

EDUCATION

2002-2007	Ph.D., marketing (management science), MIT Sloan School of Management <i>Dissertation</i> : "Essays in Behavioral Decision Making"
1999-2002	M.A., economics (<i>cum laude</i>), New Economic School, Moscow, Russia <i>Thesis</i> : "Branding"
1996-2001	M.S., mathematics (<i>cum laude</i>), Moscow State University <i>Specialization</i> : Algebra <i>Thesis</i> : "Ranks of Subalgebras of Free Non-Associative Algebras"

EXPERIENCE

- 2005-Present Analysis Group Inc., Boston, MA
Vice President (2016-Present)
Manager (2009-2015)
Associate (2007-2009)
Intern Associate (2005)
- 2003-2007 MIT Sloan School of Management, Cambridge, MA
Research Assistant, Professor Dan Ariely (2003-2007)
Teaching Assistant, Consumer Behavior, Professor Yehoshua Tsal (2005-2006)
Teaching Assistant, Managerial Psychology Laboratory, Professors Tom Allen and Dan Ariely (2003-2005)
- 2002 New Economic School, Moscow, Russia
Teaching Assistant, Econometrics III, Professor Stanislav Anatoliev

SELECTED EXPERT CASEWORK

- **Fast Food Employment Litigation**
Evaluated on behalf of the defendant, a fast-food chain, the possibility of interviewing class members, and reviewed the opposing expert's approach.
- **A.R., by and through Her Next Friend, Susan Root, et al., v. Elizabeth Dudek, in Her Official Capacity as Secretary of the Agency for Health Care Administration, et al., United States of America v. The State of Florida**
U.S. District Court, Southern District of Florida
Evaluated on behalf of the defendant a set of unscripted interviews conducted by the plaintiffs' expert in a health care case involving preferences of patients' families. Submitted rebuttal expert report and was deposed.
- **Beauty Products Trademark Infringement**
Designed an "Eveready" experiment/survey to test for consumer confusion in a trademark infringement matter involving a beauty product for the defendant (applicant) before the Trademark Trial and Appeal Board of the U.S. Patent and Trademark Office.
- **Hospitality Business Trademark Infringement**
Designed and fielded an "Eveready" experiment/survey to test for consumer confusion in a trademark infringement matter in the hospitality business for the defendant (registrant) before the Trademark Trial and Appeal Board of the U.S. Patent and Trademark Office.
- **Electronics False Advertising**
Submitted three reports on behalf of the challenged party in a case considered by the National Advertising Division of the Council of Better Business Bureaus. Opined on the merits of the design of a consumer electronics product test conducted for advertising claims.

SELECTED CONSULTING EXPERIENCE

Intellectual Property

▪ **Trademark and Trade Dress Infringement Matters**

Developed numerous online experimental design surveys in the “Eveready” and “Squirt” format and rebuttal analyses of “Eveready” surveys testing consumer perception and confusion with respect to wordmarks, design marks, trade dress, and an advertising slogan in a variety of cases, including in clothing, compliance, food, fashion, auto, luxury goods, entertainment, outdoor activities, and music industries. Addressed issues of materiality (via a choice experiment survey and open-ended purchase driver survey), dilution, and secondary meaning. Assisted experts in survey design, implementation, and analysis of surveys, as well as in drafting reports and preparations for depositions. Assisted counsels with preparation for depositions of opposing experts. Such cases include, for example:

– **Denimafia Inc. v. New Balance Athletic Shoe, Inc. et al., and New Balance Athletic Shoe, Inc. v. Denimafia Inc.**

U.S. District Court, Southern District of New York

Supported Professor Joel Steckel, who was retained by New Balance, the defendant and counter-claimant in a trademark infringement matter involving the “less is more” <=> symbol used on New Balance Minimus footwear. Assisted Professor Steckel in designing, fielding, and analyzing an “Eveready” survey/experiment testing for reverse confusion (i.e., confusion with respect to the source, sponsorship, or affiliation of Denimafia products), drafting report, and preparation for deposition. In its summary judgment in favor of New Balance, the court credited Professor Steckel’s survey with showing “a zero percent rate of reverse confusion with respect to the source of jeans bearing the <=> mark” and discounted Denimafia’s objections to the survey design. Denimafia appealed the summary judgment decision, but ultimately did not pursue the appeal and the appellate court dismissed it.

– **Luxury Goods Trademark Infringement and Dilution Matter**

Developed an online experimental design survey to test whether consumers noticed and how they perceived a logo briefly appearing in a TV commercial. Evaluated opposing expert’s survey. Assisted expert in survey design, implementation, and analysis of survey; developing rebuttal points for opposing expert’s survey; drafting reports; and preparation for depositions; assisted counsel in preparation for deposition of opposing expert.

▪ **Smartphone Patent Infringement Matters**

Evaluated opposing expert’s surveys (including a conjoint-style survey) aimed at isolating the value to consumers of the patented features in smartphones. Assisted experts in drafting reports and preparation for deposition and trial testimony. Assisted counsel with preparation for and at depositions of opposing expert and data witnesses.

False Advertising

▪ **Kenneth Hobbs v. Brother International Corporation**

U.S. District Court, Central District of California

Supported Professor Joel Steckel of New York University Stern School of Business in conducting two surveys on behalf of Brother International Corporation, the defendant in a consumer class action

false advertising case. The plaintiff claimed that the printers at issue did not scan complete pages, causing the edges of images to be truncated. One survey evaluated consumer awareness of a printer's alleged malfunctioning. The other, a survey/experiment, addressed the materiality of this limitation to consumers. In its order denying class certification, the court cited the experiment involving more than 450 people who had purchased or planned to purchase a printer close to the time of the survey, which found that "consumers chose the Brother printer with nearly identical frequency regardless of whether they were made aware of the unscannable margin at the time of their selection." The plaintiff agreed to dismiss his case with prejudice and waive his right to appeal. Assisted Professor Steckel with design, implementation, and analysis of the studies; drafting reports and declarations; and preparation for deposition.

▪ **E-Retailer False Advertising Matter**

Supported Professor Joel Steckel in conducting two experiments on behalf of a major e-retailer accused of using misleading reference price terms (e.g., "Compare at"). In the first study, groups of consumers visiting the defendant's website were randomly assigned to view the reference price labels as either "MSRP" (manufacturer's suggested retail price) or "Compare" throughout their shopping session and subsequent website visits. No difference in the sales conversion rate was found. Further, a survey of consumers who made purchases during the study period showed no difference in recall of the product price, the reference price, or the term used with the reference price. The second study, conducted with an online consumer panel, found that consumers' understanding of reference prices did not depend on the label used (e.g., "was," "compare at," "compare," and "MSRP"). Assisted in design, implementation, and analysis of both studies, and in preparation of deposition and trial testimony.

▪ **Online Services False Advertising Matter**

Evaluated opposing experts' surveys testing consumer perception of charges for an online service. Assisted in drafting report and counsel's briefs, as well as in preparation for depositions. Assisted counsel in preparation for depositions of opposing experts.

▪ **Cigarette False Advertising Matter**

Evaluated opposing counsel's survey-like methodology to evaluate consumer perception of cigarette packaging. Assisted expert in drafting declarations and report.

Corporate Acquisitions

▪ **AT&T's Acquisition of DIRECTV – Survey of Consumer Preferences**

Supported Professor Ravi Dhar of the Yale School of Management in developing, conducting, and analyzing a survey examining consumer attitudes toward bundled Internet and television services, in a case widely covered by the media. AT&T and DIRECTV cited the outcome of the study in their applications to the Federal Communications Commission (FCC), pointing to the benefit to consumers when Internet and television services are delivered by the same provider. The FCC and the U.S. Department of Justice approved the acquisition. Assisted Professor Dhar in survey design, implementation, and analysis, as well as drafting report.

Antitrust

▪ Microsoft Antitrust Matters

- **Jim Hood, Attorney General ex rel. State of Mississippi v. Microsoft Corporation**
Chancery Court of Hinds County, Mississippi
- **Pro-Sys Consultants Ltd. and Neil Godfrey v. Microsoft Corporation and Microsoft Canada Co./Microsoft Canada CIE**
Supreme Court of British Columbia

Developed affirmative damages analysis and rebuttals of the plaintiffs' damages analysis and class certification arguments in the cases involving allegations of Microsoft's overcharging consumers for its operating systems, word processors, and spreadsheet products.

▪ Credit Cards Antitrust Matter

Developed an online experimental design survey to expose issues with opposing expert's survey testing consumer reaction to retailers' potential credit card policies. Assisted expert in survey design, implementation, and analysis preparation of report; and in preparation for and at deposition. Assisted counsel in preparation for deposition of opposing expert.

▪ High Tech Antitrust Matters

Including Advanced Micro Devices, Inc. v. Intel

U.S. District Court, District of Delaware

Analyzed incremental costs for price/cost analysis. Assisted in data production and analysis, drafting reports, deposition preparation, and at deposition.

PUBLICATIONS

"What Consumers Really Think about Reference Price Labels," with Rebecca Kirk Fair, Laura O'Laughlin, Jesse Shea, and Joel Steckel, *Law360*, May 2017

"Probabilistic Price Promotions – When Retailing and Las Vegas Meet," with Dan Ariely and Nina Mazar, *Management Science*, Vol. 63, No. 1, pp. 250-266, 2016

"Zero as a Special Price. The True Value of Free Products," with Dan Ariely and Nina Mazar, *Marketing Science*, Vol. 26, No. 6, pp. 742-757 (lead article), 2007

"How Small Is Zero Price? The True Value of Free Products," *Advances in Consumer Research*, Vol. 33, pp. 254-255, 2006

"Algorithms Realizing Rank and Primitivity of Systems of Elements of Free Non-Associative Algebras," *Fundamental and Applied Mathematics*, Vol. 6, No. 4, pp. 1229-1238, 2000

SELECTED PRESENTATIONS AND SPEAKING ENGAGEMENTS

"Surveying the Truth: False Advertising and Trademark Litigation," with August Horvath and Joel Steckel, first webinar in the series, *Deceit and Denial: The Role Surveys Play in False Advertising and*

Trademark Litigation, American Bar Association's Section of Antitrust Law Advertising Disputes & Litigation Committee, February 2016

"Listening to Customers – How to Ask the Right Question, Surveys in Litigation," Professors Jiwoong Shin and Aniko Oery's M.B.A. classes, *Listening to the Customer*, Yale School of Management, 2012, 2013, 2015, and 2016

"How Small is Zero Price? The True Value of Free Products," Association for Consumer Research, North American Conference, San Antonio, TX, and London Business School, 2005

PROFESSIONAL ASSOCIATIONS AND MEMBERSHIPS

American Marketing Association
Marketing Science "Ambassador"

ACADEMIC HONORS

2005-2006 The Zannetos Fund Fellow, Massachusetts Institute of Technology
2005-2006 The Stuart Fund Fellow, Massachusetts Institute of Technology
2006 AMA-Sheth Foundation Doctoral Consortium Fellow
2004-2005 MasterCard Fellow, Massachusetts Institute of Technology
2003 The Russell Sage Summer Institute, Trento, Italy
2002-2003 DuPont Fellow, Massachusetts Institute of Technology

LANGUAGES

Russian (native), English (fluent), French (intermediate)