

JUSTIN N. McLEAN
Managing Principal

Phone: 202 530 2591
Fax: 202 530 0436
justin.mclean@analysisgroup.com

800 17th Street, N.W.
Suite 400
Washington, D.C., 20006

Mr. McLean specializes in applying finance and economics to problems in complex business litigation, including securities, valuation, tax, and intellectual property matters. His experience spans several industries, from banking, insurance, and high technology to telecommunications and health care. He has served as an expert witness, and has provided assistance in many phases of litigation, including development, presentation, and review of pretrial discovery; preparation of testimony; and critique of analyses of opposing experts.

Mr. McLean's case work has included general damages analyses, lost profit and reasonable royalty calculations related to intellectual property misappropriation, and assessments of fiduciary duties and investment management. In addition, he has evaluated the economic characteristics and risk transfer of a range of financial instruments, such as private mortgage insurance, subprime loans, and preferred equity in a new venture. He has led large case teams in a number of high-profile matters, including consulting to the U.S. Department of Justice regarding the financial issues involved in tribal trust fund disputes, and supporting counsel for a large electronics manufacturer in litigation associated with features on smartphones and tablets.

In addition, Mr. McLean has presented on topics related to damages assessment and patents. He has also worked with entrepreneurial companies, helping to develop financial projections, business plans, and marketing strategies.

EDUCATION

2000 M.S., industrial administration (University Honors, *Beta Gamma Sigma*), Tepper School of Business at Carnegie Mellon University
Concentrations: finance, accounting, and entrepreneurship

1995 B.A., economics, Swarthmore College

PROFESSIONAL EXPERIENCE

2000–Present Analysis Group, Inc.

1999 Deloitte & Touche Consulting Group

1996–1998 Analysis Group, Inc.

1995–1996 Putnam, Hayes & Bartlett

SELECTED EXPERT CASEWORK

Litigation Engagements with Testimony

- ***Western Shoshone Identifiable Group v. United States of America***
U.S. Court of Federal Claims
Testimony, Deposition, and Expert Report: Calculation of damages associated with alleged bad acts related to trust fund management.
- ***Taylor Precision Products, Inc. v. The Larimer Group, Inc., et al.***
U.S. District Court, Southern District of New York
Deposition and Expert Report: Calculated diminution in value to assets related to undisclosed changes in customer activities.
- ***SNMP Research International, Inc., et al. v. Nortel Networks, Inc., et al.***
U.S. Bankruptcy Court, District of Delaware
Deposition and Expert Report: Calculated reasonable royalty and profit damages related to copyright, trade secret, and breach of contract claims associated with protocol software.
- ***Computer Sciences Corporation v. Federal Home Loan Mortgage Corp.***
U.S. District Court, Eastern District of Virginia
Deposition and Expert Report: Addressed damages related to master service agreement for information technology solutions.
- ***PerdiemCo LLC v. Industrack LLC, et al.***
U.S. District Court, Eastern District of Texas
Deposition and Expert Report: Calculated reasonable royalty damages related to patent directed to fleet management systems and software.
- ***Nancy Thompson, et al. v. Gordon Witherspoon and UBS Financial Services, Inc.***
Circuit Court, Baltimore City
Testimony, Deposition, and Expert Report: Addressed calculation of damages associated with breach of duties regarding a life insurance policy.
- ***Markem-Imaje, Corp. v. VideoJet Technologies Ltd., et al.***
U.S. District Court, District of New Hampshire
Deposition and Expert Report: Calculated lost profits and reasonable royalty for patent directed to a tape drive and controller used in a printing apparatus.
- ***NorthmobileTech, LLC v. Simon Property Group, Inc.***
U.S. District Court, Western District of Wisconsin
Deposition and Expert Report: Calculated reasonable royalty for patent directed to a marketing method involving the location of the customer.

- ***William Black, Jr. v. Gramercy Advisors, LLC, et al.***
American Arbitration Association
Testimony and Expert Report: Addressed net out-of-pocket damages calculations associated with misrepresentations and breach of fiduciary duties regarding an investment transaction.
- ***LG Electronics, USA, Inc., et al. v. Whirlpool Corporation***
U.S. District Court, District of New Jersey
Depositions and Expert Reports: Calculated reasonable royalty damages for patents directed to ice and water dispensing in bottomfreezer refrigerators. Performed analysis of the commercial success of products due to the patented invention.
- ***Charity Funding, Inc., et al. v. Military Order of the Purple Heart Service Foundation, Inc.***
U.S. District Court, Eastern District of Virginia, Alexandria Division
Deposition and Expert Report: Calculated damages and unjust enrichment related to charitable vehicle donation program.
- ***United States of America, ex rel. Jon H. Oberg v. Nelnet, Inc., et al.***
U.S. District Court, Eastern District of Virginia, Alexandria Division
Deposition and Expert Report: Addressed economic damages related to improper submission of claims for student loan subsidy payments.
- ***Edward D. Jones & Co., L.P. v. Jason L. Williams and Wells Fargo Advisors, LLC***
Financial Industry Regulatory Authority, Department of Arbitration
Testimony: Addressed lost profits and unjust enrichment related to improper solicitation of customers and misappropriation of proprietary customer information.
- ***FutureLogic, Inc. v. TransAct Technologies, Inc.***
U.S. District Court, Central District of California
Deposition and Expert Report: Calculated lost profit damages related to patent directed to coupon printing by slot machine printers.
- ***Auction Management Solutions, Inc. v. Adesa, Inc., et al.***
U.S. District Court, Northern District of Georgia, Atlanta Division
Deposition and Expert Report: Calculated reasonable royalty for patent directed to remote bidding system and software for live auctions.
- ***CareFirst Blue Cross Blue Shield v. Merck-Medco Managed Care, L.L.P., et al.***
Superior Court of New Jersey, Law Division-Camden County
Deposition and Expert Report: Calculated unpaid manufacturer rebates related to prescription drug benefit plan agreements.
- ***Bright House Networks and Suddenlink Merger Analysis***
Federal Trade Commission
Expert Presentation: Performed price analysis of service combinations offered by the two cable providers.

- ***BCBS Minnesota, et al. v. Mylan Laboratories, Inc., et al.***
U.S. District Court, District of Columbia
Deposition and Declarations: Performed analysis of various claims data for calculation of antitrust damages stemming from exclusive supply agreements for raw materials.
- ***Rodski v. Rodski***
Court of Common Pleas, Luzerne County, Pennsylvania
Testimony and Expert Report: Performed valuation of privately-held amateur radio equipment business.
- ***The Apollo Theatre Foundation, Inc. v. Western International Syndication, et al.***
U.S. District Court, Southern District of New York
Deposition and Expert Report: Calculated damages related to trademark infringement and breach of duties regarding variety show.

Other Litigation Engagements as Testifying Expert

- ***In the Matter of: Certain Potassium Chloride Powder Products***
U.S. International Trade Commission
Analysis of harm to domestic industry from alleged unfair competition.
- ***PerdiemCo LLC v. GPS N.A., et al.***
U.S. District Court, Eastern District of Texas
Calculated reasonable royalty damages related to patent directed to fleet management systems and software.
- ***Beijing UniSpreadtrum Technology Ltd. v. Sasken Communications Technologies Limited***
American Arbitration Association, International Centre for Dispute Resolution
Calculated damages stemming from alleged breach of joint venture technology agreement and royalty for alleged infringement.
- ***Pavonix, Inc., et al. v. Alexander, Aronson, Finning & Company, P.C.***
American Arbitration Association
Calculated damages stemming from alleged incorrect financial statements used in sale of business.
- ***Edward D. Jones & Co., L.P. v. Betty Schutte-Box and Wells Fargo Advisors, LLC***
Financial Industry Regulatory Authority, Department of Arbitration
Addressed lost profits and unjust enrichment related to improper solicitation of customers and misappropriation of proprietary customer information.
- ***MaxLinear, Inc. v. Silicon Laboratories, Inc.***
U.S. District Court, Southern District of California, San Diego Division
Calculated reasonable royalty for patents directed to fine tuning control for synthesizing high frequency signals for wireless communications.

- ***NorthmobileTech, LLC. v. General Growth Properties, Inc.***
U.S. District Court, Western District of Wisconsin
Calculated reasonable royalty for patent directed to a marketing method involving the location of the customer.
- ***MicroSpherix, LLC v. Biocompatibles, Inc.***
U.S. District Court, Southern District of Florida
Calculated reasonable royalty for patent directed to brachytherapy seed coating technology.
- **Confidential Analysis of Financial Condition**
Federal Trade Commission
Analyzed the financial condition of a multinational company and two of its subsidiaries.
- ***East Side Entrees, Inc. v. Acosta, Inc. and Matchpoint Marketing, LLC***
U.S. District Court, Eastern District of New York
Analyzed economic damages from breach of contract for marketing and advertising plan related to new food product launch.
- ***Ubisoft v. Optical Experts Manufacturing***
U.S. District Court, Western District of North Carolina
Analyzed damages stemming from copyright infringement and breach of contract related to early leak of PC version of Assassin's Creed video game.
- ***Samuel Washington v. Citizens Bank***
State of South Carolina, Court of Common Pleas, County of Beaufort
Calculated economic benefit from credit report trade-line deletions related to automobile repossessions.
- ***BB&T Investment Services, Inc. v. Michael Neal***
National Association of Securities Dealers Arbitration
Calculated lost profits and unjust enrichment related to misappropriation of proprietary customer information.
- ***R.H. Murphy, Co. v. ITW, Inc.***
U.S. District Court, District of Massachusetts
Calculated reasonable royalty for patent directed to BGA integrated circuit trays. Addressed lost profit, reasonable royalty and price erosion claims.

SELECTED CONSULTING EXPERIENCE

Finance, Valuation, and Tax

- **Various valuations of privately-held companies**
Including:
Valuations of privately-held rolling steel door business, exotic sports cars business, government contracting software business, and genetic testing company.

- ***Quapaw Tribe of Oklahoma; G. Goodeagle; T. Bear v. United States of America***
U.S. Court of Federal Claims
Evaluation of activities of the trustee and calculation of the economic harm associated with alleged bad acts related to fund and asset management.

- ***Chickasaw Nation and Choctaw Nations v. United States of America***
U.S. District Court, Western District of Oklahoma
Evaluation of the adequacy of the accounting regarding various trust assets.

- ***FINRA Department of Enforcement v. David Lerner Associates, et al.***
Financial Industry Regulatory Authority, Office of Hearing Officers
Evaluation of REITS, non-traded REITS, and the practices of specific non-traded REITS.

- ***Jicarilla Apache Nation, et al. v. United States of America***
U.S. Court of Federal Claims
Evaluation of the fiduciary duties of investment fund trustee and calculation of the economic harm associated with alleged bad acts related to fund management.

- ***Quechan Tribe of the Fort Yuma Indian Reservation v. United States of America***
U.S. Court of Federal Claims
Evaluation of the fiduciary duties of investment fund trustee and calculation of the economic harm associated with alleged bad acts related to fund management.

- ***Santa Clara Valley Housing Group, Inc., et al. v. United States of America***
U.S. District Court, Northern District of California
Analysis of the economic characteristics of a transaction and its business purpose related to a tax dispute, including the valuation of certain real estate projects.

- ***Chemtech Royalty Associates, et al. v. United States of America***
U.S. District Court, Middle District of Louisiana
Analysis of the economic characteristics of a transaction and its business purpose related to a tax dispute.

- ***Herschel Blumberg, et al. v. Arent Fox, LLP***
U.S. District Court, Eastern District of Pennsylvania
Review and evaluation of both real estate development activities and fiduciary duties.

- ***Donna Moore, et al. v. GMAC Mortgage, LLC, et al.***
U.S. District Court, Eastern District of Pennsylvania
Evaluation of the economic characteristics and risk transfer associated with private mortgage insurance.

- ***Delhaize America Inc., et al. v. Secretary of the Revenue of North Carolina***
Superior Court, North Carolina, Wake County
Analysis of corporate restructuring and formation of particular subsidiaries associated with tax dispute.
- ***Hillsborough Holdings Corporation, et al. v. United States of America***
U.S. Bankruptcy Court, Middle District of Florida, Tampa Division
Analysis of the subprime mortgage industry. Addressed economic characteristics and accounting of particular loans.
- ***Amana I, et al. v. Cairnwood Group, et al.***
Superior Court, State of Georgia
Analysis of the venture capital industry and evaluation of the economic returns of comparable funds. Calculated damages associated with alleged misrepresentations for a particular investment fund.
- ***The Boston Company Asset Management, LLC. v. Munder Capital, et al.***
Superior Court, Commonwealth of Massachusetts
Analysis of breach of fiduciary duty and breach of non-solicitation agreements associated with investment management. Calculated lost profits related to misappropriation of proprietary customer information and other alleged bad acts.
- ***In Re: WCI Steel, Inc.***
U.S. Bankruptcy Court, Northern District of Ohio, Eastern Division
Valuation related to bankrupt steel firm, including an analysis of various restructuring proposals.
- ***NRG Power Marketing Company v. Federal Energy Regulatory Commission***
U.S. Court of Appeals, District of Columbia Circuit
Analysis of the financial status of a bankrupt entity seeking to reject a power contract.
- ***MKP Hedge Fund v. Salomon Smith Barney***
U.S. District Court, Southern District of New York
Analysis of margin calls related to mortgage-backed security hedge fund.
- ***Southeast Land Development Associates, L.P. v. The District of Columbia, et al.***
U.S. District Court, District of Columbia
Valuation related to land values for the proposed baseball stadium in Washington, D.C.
- ***Trustees of the Mafco Litigation Trust, et al. v. Ronald Perelman, et al.***
U.S. District Court, District of Delaware
Analysis of debt issuance and the impact of certain restrictive covenants.
- ***Maymin, et al. v. Fuji Bank***
U.S. District Court, Southern District of New York
Analysis of hedge fund performance and determination of lost profits related to the management of the fund.

- **Various confidential engagements**

Including:

Analysis of competitive position of private lender and its portfolio of securitized loan products, analysis of allocations and performance of initial public offerings, analysis of the conformance to representations and warranties for a pool of mortgages, and analysis of a right-of-first refusal encumbrance in a real estate lease related to a merger.

General Damages

- ***In Re: JPMorgan Chase Mortgage Modification Litigation***

U.S. District Court, District of Massachusetts

Analysis of mortgage modification programs and evaluation of identification of class members and damages from various alleged failures by JPMC.

- ***Flycell, Inc. v. Shlossberg LLC, et al.***

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

Analysis of damages from alleged breaches of duties associated with overpayment for affiliate marketing services.

- ***Adam Jernow, et al. v. Wendy's International, Inc.***

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

Analysis of damages from alleged price premium associated with inaccurate representations regarding trans fat content in French fries.

- ***BCBS Michigan, et al. v. Hoechst A.G., et al.***

U.S. District Court, Eastern District of Michigan, Southern Division

Calculated antitrust damages stemming from delayed entry of generic alternative pharmaceuticals.

- ***Marathon Enterprises, Inc. v. Schroter GMBH & Co.***

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

Calculated damages from breach of a contract regarding the delivery of skinless frank production machinery.

- ***Independent Media Services, Inc. v. Aegis Group PLC, et al.***

Supreme Court, State of New York

Calculated damages from the breach of a non-solicitation clause in a non-disclosure agreement.

- ***Pearson PLC v. Hicks, Muse, Tate & Furst, Inc.***

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

Calculated damages from breach of contract involving the acquisition and valuation of publishing companies.

- ***PBM Products, Inc. v. Mead Johnson & Company***

U.S. District Court, Eastern District of Virginia

Calculated damages stemming from a false advertising campaign. Performed marketing analysis and evaluated financial projections for companies within the infant formula industry.

Intellectual Property

- ***Wisconsin Alumni Research Foundation v. Apple, Inc.***
U.S. District Court, Western District of Wisconsin
Evaluated smartphone pricing, processor speed, and reasonable royalty damages for patents directed to smartphones and tablets.
- ***Apple, Inc. v. Samsung Electronics Co., Ltd., et al.***
U.S. District Court, Northern District of California, San Jose Division
Addressed conjoint study results, claims for lost profits, and reasonable royalty damages for patents directed to smartphones and tablets.
- ***MacDermid, Inc. v. Cookson Group, PLC, et al.***
U.S. Superior Court, Judicial District of Waterbury
Calculated damages related to misappropriation of trade secrets in context with bidding process and acquisition of company.
- ***Abbott Biotechnology Ltd. and Abbvie Inc. v. Centocor Ortho Biotech, Inc.***
U.S. District Court, District of Massachusetts
Calculated lost profits and reasonable royalty damages for patents directed to methods for treating rheumatoid arthritis by co-administering methotrexate and human antibodies.
- ***Wi-LAN Inc. v. Alcatel-Lucent, et al.***
U.S. District Court, Eastern District of Texas, Marshall Division
Calculated reasonable royalty damages for patents directed to High Speed Packet Access (HSPA) transmission in cell phones and base stations.
- ***Novozymes A/S, et al. v. Danisco A/S, et al.***
U.S. District Court, Western District of Wisconsin
Addressed lost profit, reasonable royalty, and convoyed sales damages for patent directed to an Alpha Amylase used in the production of fuel ethanol.
- ***Northeastern University, et al. v. Google, Inc.***
U.S. District Court, Eastern District of Texas, Marshall Division
Calculated reasonable royalty damages for patent directed to indexing data and performing queries.
- ***Medtronic Inc., et al. v. Abbott Laboratories and Abbott Vascular, Inc.***
U.S. District Court, Northern District of California, San Francisco Division
Addressed lost profits and reasonable royalty damages for patent directed to coronary and peripheral stents.
- ***Medtronic USA Inc., et al. v. ACS and Guidant Corp.***
U.S. District Court, District of Delaware
Calculated lost profits and reasonable royalty damages for patents directed to coronary and peripheral stents.

- ***In the Matter of: Certain 3G Mobile Handsets and Components Thereof***
U.S. International Trade Commission
Analyzed royalty license proposals to assess if the economic terms were fair, reasonable and non-discriminatory.
- ***Johnson & Johnson, et al. v. Actavis Group hf and Actavis, Inc.***
U.S. District Court, Southern District of New York
Calculated disgorgement of profit remedies for trademark and trade dress infringement related to antibiotic ointments and creams.
- ***Guidant Corp. v. St. Jude Medical, Inc.***
U.S. District Court, District of Delaware
Calculated lost profits and reasonable royalty damages for patent directed to cardiac resynchronization therapy technology. Addressed intervening rights claims, and calculation of research and development expenses.
- ***True Position, Inc. v. Andrew Corp.***
U.S. District Court, District of Delaware
Calculated lost profits and prejudgment interest for patent directed to cellular telephone location hardware and software.
- ***Water Fun Products Corp. v. ProSlide Technology Inc.***
U.S. District Court, Central District of California, Western Division
Calculated reasonable royalty and prejudgment interest for patent directed to manufacture of water slide rides.
- ***The Topps Company, Inc. v. Cadbury Stani and Cadbury Schweppes***
U.S. District Court, Southern District of New York
Calculated disgorgement of profit remedies for trade secret infringement of proprietary formula for bubble gum.
- ***Texas Instruments Inc. v. Tessera, Inc.***
U.S. District Court, Northern District of California, Oakland Division
Calculated damages from breach of contract and patent infringement damages for patent directed to semiconductor packaging technology.
- ***Atofina v. Great Lakes Chemical Corp.***
U.S. District Court, District of Delaware
Calculated reasonable royalty and prejudgment interest for patent directed to manufacturing of difluoromethane.
- ***Bennetton Sportssystem USA, Inc. (Prince Sports Group) v. Wilson Sporting Goods Co.***
U.S. District Court, District of New Jersey
Addressed lost profit, reasonable royalty, price erosion, and prejudgment interest claims for patent directed to tennis racquets.

- ***Bauer Inc. v. Rollerblade, Inc.***
U.S. District Court, Eastern District of Virginia
Calculated lost profits, reasonable royalty, and prejudgment interest for patent directed to a skate boot design.

SELECTED PRESENTATIONS AND PUBLICATIONS

- “Estimating the Cost of Capital,” with R. Jeffrey Malinak, Chapter 10 in *Litigation Services Handbook: Sixth Edition* (2017)
- “Patent Valuation for Software Inventions: What You Need to Know in 2016,” with Brian Dies, webcast hosted by The Knowledge Group (June 6, 2016)
- “Litigation Strategies, Tactics and Techniques: Experts - Strategies and Best Practices,” with Alexandra Cunningham and Sona Rewari (October 5, 2015)
- “How to Prove Damages in Patent, Trademark and Copyright Cases,” with John Augustyn, Brian Nolan, Christine Meyer, Carmen Bremer, and Kris Boushie, webcast hosted by The Knowledge Group (September 2, 2015)
- “Working with Experts,” with Ajay Jyoti (May 27, 2015)
- “Presenting an Effective Damages Case in Light of Recent Federal Circuit Precedent,” with Brian Kacedon and Lauren Stiroh (October 19, 2011)
- “Economic Approach to Damages,” with Ran Harel and Maureen Chakraborty (April 21, 2009)
- “Economic Analysis in Patent Litigation: The Law & Economics of Permanent Injunctions,” with Carla Mulhern (July 25, 2007)
- “Terms and Structures for Software Technology Transfer,” with Laura Stamm and Josh Lerner (October 27, 2004)