

**MINH P. DOAN**  
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Ms. Doan specializes in the evaluation of economic damages in complex commercial disputes, including intellectual property (IP), class certification, antitrust, and breach of contract matters. She has extensive experience developing damages models and determining claimed lost profits and reasonable royalties in IP cases in the medical device, smartphone, computer hardware and software, automotive technology, and internet advertising industries. She has also managed case teams in numerous joint defense patent infringement engagements. Ms. Doan has expertise evaluating whether putative class members' economic injury and damages can be determined on a class-wide basis in a broad range of cases, including *Levi Jones, et al. v. ConAgra Foods Inc.* and *Evan Weiner, et al. v. Snapple Beverage Corporation*. She has supported counsel in all phases of the litigation process, including discovery, expert reports, deposition, and trial preparation. Ms. Doan has been recognized as among the top economic experts for IP matters by *Intellectual Asset Management* (IAM) in the IAM Patent 1000, which identifies leading patent professionals around the globe.

**EDUCATION**

M.S., Actuarial Science	University of Iowa, December 2005
M.A., Economics	Northwestern University, June 2003
B.A., Mathematics and Economics	Berea College ( <i>Summa Cum Laude</i> ), May 2001

**PROFESSIONAL EXPERIENCE**

Analysis Group, Inc., Dallas, TX	Vice President (January 2013 – present) Manager (January 2011 – December 2012) Associate (January 2008 – December 2010) Senior Analyst (March 2007 – December 2007)
Watson Wyatt Worldwide, Chicago, IL	Actuarial Analyst (Retirement Practice) January 2006 – March 2007
University of Iowa, Iowa City, IA Department of Statistics and Actuarial Science	Teaching Assistant September 2004 – December 2005
Northwestern University, Evanston, IL Department of Economics	Teaching Assistant September 2002 – June 2003

## PROFESSIONAL AFFILIATIONS

Associate, Society of Actuaries

## SELECTED CONSULTING ENGAGEMENTS

### Intellectual Property: Patent Infringement

- Participated in evaluating damages claimed by the Plaintiff as a result of the alleged patent infringement by seven Defendants regarding a technology that claims to protect Linux-based servers against certain types of denial-of-service attacks. Evaluated the negotiating positions of Plaintiff and Defendants, including factors common across Defendants as well as factors specific to each Defendant. Analyses included determining the costs incurred by each Defendant associated with implementing non-infringing alternatives. Assisted in evaluating Plaintiff's damages expert report with regard to the claimed royalty payment structure, claimed royalty base, claimed royalty rate, and reasonableness checks performed by the opposing expert.
- Plaintiff, a manufacturer of hunting products, sued another manufacturer for the alleged infringement of two patents regarding spinning wing duck decoys. Assisted in preparing an expert report that provides evaluations of Plaintiff's lost profits, reasonable royalty, and future damages. Analyses included evaluating the *Panduit* conditions, determining the products Plaintiff would have sold in the absence of the alleged infringement, deriving Plaintiff's adjusted market share, determining incremental profitability, and calculating lost profits on lost unit sales. In addition to the patent infringement claims, Plaintiff asserted that Defendant falsely marked its products with expired patents. Evaluated the number of false marking-related offenses based upon different scenarios.
- A major search/content provider was alleged to infringe a patent related to a certain method of bid management used in paid search engines. Assisted in preparing a rebuttal expert report, including performing research regarding the evolution of sponsored search auctions; evaluating Defendant's license agreements related to online advertising technology and their comparability to the hypothetical license in this case; analyzing the indicators of value for the patent-in-suit (such as licensing offers and Plaintiff's sale of membership interest); and assessing Defendant's own innovations regarding its sponsored search business model.
- A major manufacturer of portable digital music and video players was alleged to infringe two patents related to the playlist and podcast features. Evaluated Plaintiff's apportionment of the claimed operating profits associated with the accused products to the accused features, including assessing the applicability of various survey results and performing reasonableness tests. Constructed the negotiating positions in a hypothetical licensor / licensee negotiation, including the Plaintiff's sale attempts regarding the patents-in-suit, the factors contributing to the commercial success of the accused products unrelated to the patents-in-suit, the incremental benefits of the patents-in-suit over existing technologies, and the product risks and economic uncertainty at the time of the hypothetical negotiation.
- In a patent infringement matter related to prosthetic liners and sleeves, evaluated Plaintiff's expert's construction of two hypothetical negotiations based upon an assignment agreement. Analyzed Plaintiff's license agreements to determine Plaintiff's licensing approach; the comparability of these license agreements to the hypothetical license between Plaintiff and Defendant (e.g., technology, field of use, and negotiating positions); and the additional rights that would not have been included in the hypothetical license.

- Led a team in evaluating Plaintiff's royalty damages claim against three automobile manufacturers related to two patents that allegedly cover the integration of portable electronic devices (e.g., MP3 players) to a vehicle's sound system. Assessed the use of the 25% Rule by Plaintiff's expert, analyzed company-specific and iPod interface-related license agreements, determined the purchase costs of allegedly infringing vehicle components, and evaluated industry surveys regarding iPod integration. Assisted in developing alternative damages estimates under various findings by the trier-of-fact.
- In a patent infringement matter relating to the initiation of virtual private networks, participated in the evaluation of claimed royalty damages asserted against a major software manufacturer for allegedly incorporating the patented technology into its software applications. Analyzed valuations of the patented technology around the time of the hypothetical negotiation, the drivers of demand for the software applications allegedly embodying the patents-in-suit, the Parties' patent licensing approaches, and the *Georgia-Pacific* factors. Analyzed the three factors outlined in *Cornell University v. Hewlett-Packard* to determine if the application of the Entire Market Value Rule would be warranted. Analyzed the four factors enumerated in *eBay Inc. v. MercExchange* to determine if an injunction against the accused products would be warranted.
- Participated in evaluating damages claimed by the Plaintiff as a result of the alleged patent infringement by three Defendants (i.e., two major banks and an information technology outsourcing company) of a technology relating to check imaging, processing, and storage. Assisted in the development of an alternative damages estimate based upon analyzing the Plaintiff's financial performance and commercialization efforts around the time of the hypothetical negotiation, the Defendants' investments and net benefits associated with image enablement, the respective economic contributions of the Parties to the successful commercialization of the accused instrumentalities, and the *Georgia-Pacific* factors. Determined the costs associated with implementing non-infringing alternatives.
- Plaintiff, the owner of a patent related to a technology involving tire pressure monitoring system ("TPMS"), sued two automobile manufacturers for alleged patent infringement. Evaluated the claimed historical and future reasonable royalty damages presented by the opposing expert. One of the factors at issue was the federal mandate for vehicles to use TPMS and customer demand for TPMS prior to the federal mandate. Assessed the royalty payment structure proffered by the Plaintiff in light of the variations in TPMS purchase costs and the licensing approach generally used in the automobile industry. Supervised a team of professionals in analyzing numerous license agreements produced by Defendants in the case.
- A medical device manufacturer brought suit against three medical device manufacturers and a supplier for the alleged infringement of a technology relating to blood glucose monitoring devices. Reviewed a large volume of documents, performed incremental profitability analysis, analyzed sales and market share data, and conducted market and industry research. Conducted *Panduit* factor analysis and *Georgia-Pacific* factor analysis. Calculated lost profits and reasonable royalty damages suffered by the Plaintiff under different infringement findings.
- Assisted in the evaluation of reasonable royalty damages in a patent infringement matter involving flash drive technology. Analysis included market research, review of license agreements, and calculation of accused product sales under various potential damages scenarios. Assisted in *Georgia Pacific* factor analysis and determination of important negotiating positions in a hypothetical licensor / licensee negotiation.
- Assisted in evaluating damages suffered by the Plaintiff as a result of the alleged infringement of the Defendant relating to a technology concerning status feedback in home lighting control systems. Reviewed a large volume of documents, including various surveys of home lighting control system

manufacturers, dealers, and end-users. Used these surveys as inputs into the derivation of alleged infringing sales and market share data. Analyzed Plaintiff's competitors, pricing patterns, productive capacity, and geographic coverage in support of the lost profits claim. Performed data analysis on a large database consisting of sales orders of accused products, identified ancillary sales, and calculated lost profits and royalty damages under multiple potential damages scenarios.

- Assisted in the evaluation of Plaintiff's lost profits and reasonable royalty damages relating to DVR technology. Analysis included an assessment of Plaintiff's sales of DVR products and subscriptions in the absence of the infringement during the stay of the permanent injunction. Performed an incremental revenue and cost analysis. Assisted in the determination of a post-verdict royalty rate based upon the evidence and arguments found material to the granting of the injunction and the change in the parties' bargaining positions. Also assisted in the evaluation of the damages the Plaintiff sustained from the Defendant's failure to comply with the court-mandated injunction.
- Plaintiff, the holder of a patent concerning six-degree-of-freedom control technology in the video game industry, sued a major video game system manufacturer for the alleged infringement of its patent. Assisted in the evaluation of Plaintiff's claimed reasonable royalty damages. Conducted market and industry research, performed *Georgia-Pacific* factor analysis, evaluated Plaintiff's royalty damages analysis, and provided an alternative royalty damages analysis. Assisted in preparation of trial demonstratives and Q&As. Also assisted in the evaluation of a post-trial reasonable royalty rate.
- Plaintiff, the holder of a patent concerning joystick port interface, sued a major video game manufacturer for the alleged infringement of its patent. Assisted in the critique of Plaintiff's reasonable royalty damages. Issues investigated included factors contributing to the commercial success of the accused products, indicators of value of the patented technology, and the economic and business environment surrounding the hypothetical negotiation. Also analyzed the claimed royalty base and claimed industry royalty rates. Conducted *Georgia-Pacific* factor analysis and prepared alternative calculations of claimed royalty damages.
- Multi-Defendant Patent Infringement Matters. Managed case teams in a number of patent infringement matters on behalf of multiple Defendants, including *CEATS, Inc. v. Continental Airlines, Inc. et al.* (on behalf of 17 airlines and ticketing companies), *DDR Holdings, LLC v. Hotels.com, LP et al.* (on behalf of 6 companies in the travel industry), *Prompt Medical Systems, L.P. v. EclinicalWorks et al.* (on behalf of 5 providers of electronic medical records systems), *Kelora Systems, LLC v. Target Corporation et al.* (on behalf of 5 online retailers), *Oasis Research, LLC v. AT&T Corp et al.* (on behalf of 5 providers of online backup solutions), and *Bedrock Computer Technologies, LLC v. Google Inc. et al.* (relating to 7 Defendants' use of certain versions of the Linux operating software).

#### **Intellectual Property: Copyright Infringement**

- In a suit brought by a software development and consulting company against a healthcare technology company for alleged copyright infringement, evaluated Plaintiff's lost profits from Defendant's reverse engineering and disgorgement of Defendant's profits associated with usage of Plaintiff's software. Supervised a team of professionals in analyzing numerous software licensing contracts between the Plaintiff and its customers as benchmarks to evaluate the reasonableness of the Plaintiff's contract with the Defendant in the absence of the alleged wrongful conduct. Utilized a number of pricing options that were offered by Plaintiff to Defendant to determine Plaintiff's lost maintenance and consulting revenues. Assisted in the preparation of an affirmative report and a rebuttal report addressing certain opinions proffered by the Defendant's damages expert.

#### **Intellectual Property: Commercial Success**

- Assisted in preparing a rebuttal declaration to the U.S. Patent and Trademark Office relating to the claimed commercial success of intrusion prevention systems (“IPS”) asserted to practice a patent undergoing an Inter Partes reexamination. In determining that an economic nexus had not been established between the claimed teachings of the patent and the commercial success of stand-alone IPS products, analyses included evaluating the features not claimed by the patent at issue and the economic factors unrelated to the claimed invention that contribute to the commercial success of stand-alone IPS products.

### **Antitrust**

- Plaintiff, a major airline, sued a travel technology company that operates a global distribution system (“GDS”) for allegedly anticompetitive behavior relating to the provision of booking services to travel agencies. Led a case team in evaluating multiple components of Plaintiff’s damages claim, including claimed lost profits resulting from Defendant’s actions to allegedly impede the rollout of a competing technology for booking services, contractual restrictions that prevent the airline from offering targeted discounts to price sensitive customers, allegedly retaliatory booking fee increases, and the biasing of computer screens of travel agencies. Demonstrated the flaws in Plaintiff’s claimed damages models.
- Assisted in evaluating Plaintiff’s economic liability arguments an antitrust matter regarding Plaintiff’s claim that Defendant monopolized or attempted to monopolize the business of manufacturing, selling and distributing magnetic brakes, components for magnetic brakes and magnetic braking systems for amusement park rides. Also assisted in evaluating claimed antitrust damages, including assumptions underlying opposing expert’s damages model and economic causal connection between the alleged wrongful conduct and claimed losses.

### **Breach of Contract**

- Assisted in the evaluation of Plaintiff’s economic damages arising from the alleged wrongful termination of a workers’ compensation insurance contract. Plaintiff – a provider of integrated workers’ compensation insurance and payroll services – contended that its fronting company’s alleged wrongful termination of a Managing General Agency Agreement negatively affected its ability to underwrite new business, causing harm to its revenues and business value. Assisted in the development of two approaches to quantify damages: a lost profits approach and a valuation approach. Under the lost profits approach, analyses included conducting research of the workers’ compensation insurance market and insurance premium rate trend in California, analyzing customer retention data, and determining Plaintiff’s lost profits from lost customers. Under the valuation approach, analyses included identifying comparable companies, evaluating selected financial variables for the relevant comparable companies, and assessing Plaintiff’s value in the absence of Defendant’s alleged wrongful conduct and comparing it to Plaintiff’s actual value.
- Plaintiff, a property development company, alleged it suffered damages as a result of Defendant’s failure to close on the sale of an apartment complex. Assisted in evaluating from an economic perspective whether the Purchase and Sale Agreement between Plaintiff and Defendant can be interpreted as a put option contract on the basis of certain language contained in the agreement. Performed analyses of the deteriorating economic conditions and declining availability and increasing cost of credit during the 2007/2008 time period. Analyses indicated that the Plaintiff’s apparent reliance upon what can be interpreted as a “free” insurance policy without an expiration date to enforce the sale of the property placed an unreasonable economic burden on the Defendant.

- Assisted in evaluating Plaintiff's damages claim in a breach of contract matter relating to the alleged disruption of a direct-response television campaign. Plaintiff, a golf equipment manufacturing company, claimed that the reserve requirement in a merchant credit card processing contract prevented it from continuing its marketing and advertising objectives. Analysis of various financial metrics and trends demonstrated that Plaintiff's expert failed to take into account alternative reasons for Plaintiff's declining financial performance. Analyses included evaluating the life cycle of direct response television and assessing the growth of comparable golf equipment manufacturing companies during the claimed damage period.

### **Class Certification**

- In a putative class action lawsuit, a beverages company was alleged to have misled consumers and caused them economic injury by marketing certain beverages as "All Natural" when they contained high fructose corn syrup. Assisted in evaluating Plaintiffs' position that standard economic analyses could be employed to quantify the alleged economic injury on a class-wide basis. Performed analyses of Nielsen retail sales data and demonstrated that wide variations existed in the beverages' retail prices across distribution outlets, across geographic areas, and across the time periods considered. Also demonstrated that promotional discounts and coupons significantly impact the actual prices paid by the putative class members. Reviewed product and marketing materials and assisted in the identification of benchmark products. A comparison of the average retail prices of the "All Natural" beverages to identified benchmark products did not provide economic evidence that the "All Natural" beverages possessed a systematic price premium as a result of the "All Natural" labeling.
- Other Matters. Evaluated Plaintiffs' position that the economic injury allegedly suffered by putative class members could be quantified on a class-wide basis in class action lawsuits regarding antibacterial hand soap products, anti-aging skin care products, and special assessment fees charged to timeshare vacation club members.

### **Loss of Earnings**

- Evaluated Plaintiffs' claim that the alleged wrongful conduct of the Defendants caused Plaintiffs to lose their medical privileges in pediatric neurosurgery at a hospital and sustain past and future reduction in earnings. Analyzed financial data of the doctors' medical practice, the earnings life-cycle of physicians, and other potentially mitigating factors. Conducted sensitivity analyses regarding assumptions in Plaintiffs' claimed damages calculations.
- Evaluated the claimed lost earnings suffered by a cardiologist as a result of the alleged wrongful termination of his privileges at a hospital. Analysis included evaluating the revenue growth of Plaintiff's medical practice relative to claimed lost earnings, preparing critiques of Plaintiff's expert's lost earnings damages model, and calculating alternative damages figures.

### **Professional Negligence**

- A lender to distressed companies sought \$40 million in damages from an auditor in connection with a \$130 million credit facility it had extended to an HDTV company and failed to collect when the borrower filed for bankruptcy. The auditor was alleged to have made negligent misrepresentations associated with the borrower's financial statements; the lender asserted it had relied upon the borrower's financial statements when entering into the credit facility. Assisted in reviewing voluminous documents to identify the known or knowable risks associated with providing a credit facility to the borrower, including certain accounts receivable collection risks and market softness risks. Calculated the collateral value that would have been available to the lender if it had exercised its rights

under the credit facility to recover its loan amount when the risks associated with the borrower's financial performance materialized.