

At A Glance

Intellectual Property

Overview

The aggressive exploitation of intellectual property (IP) rights has led to greater scrutiny in court proceedings, boardrooms, and legislatures about how those rights should be valued. As a result of this increased scrutiny, companies and their counsel, along with courts and policymakers, are increasingly adopting a valuation framework based upon economic principles to understand and address complex IP matters. With this amplified focus on quantitative economic analysis, the shortcomings of valuation methods based on rules-of-thumb and standard accounting allocations are ever more apparent.

NERA is widely recognized as a leading provider of expertise in the economics of IP. Our economists employ a combination of economic theory and cutting-edge quantitative techniques, grounded in a thorough understanding of market facts, to provide practical approaches to, strategies for, and analyses of the IP challenges facing our clients. Our insights are grounded by our experience gained in academia, business, and regulatory agencies. Our analyses have been presented in hundreds of proceedings involving IP disputes, and the testimony of NERA experts has withstood scrutiny in numerous forums. With offices in the US, Europe, China, Japan, and Australia, our capabilities are well-matched to the demands of a global market.

Our Focus and Expertise

Damages

NERA has extensive experience determining damages in connection with disputes involving patents, trademarks, copyrights, and trade secrets. NERA experts apply economic reasoning to analyze the details of the specific markets in which the IP at issue is used. Our experts also know how to present their analyses in clear, understandable terms that resonate in the courtroom, in mediation, in arbitration, and in licensing and settlement negotiations.

Invalidity Claims

NERA frequently evaluates the commercial success of patented inventions. This analysis is provided to assist the court in determining whether the patented invention is invalid due to obviousness.

Injunctions

NERA economists help to determine whether an IP owner may suffer “irreparable harm” caused by the sale of an infringing product.

Lanham Act Claims

We employ sophisticated analytic tools to assess the impact of alleged false and/or misleading advertising or product labelling and of alleged trademark/trade dress infringement. We also collect and evaluate survey evidence that satisfies admissibility criteria and provide unbiased evidence of confusion, secondary meaning, and damages.

IP Law and Antitrust

NERA economists often work on issues at the intersection of antitrust and IP law, applying analytical techniques to questions of market definition, competitive injury, and damages. NERA experts have analyzed a wide range of industries and have presented their work in legal and regulatory proceedings involving standard setting, licensing, mergers, and damage assessments.

Non-Litigation Valuation of IP

NERA economists understand that proper and defensible valuation of IP assets requires more than mere reference to commonly used jargon. A cookie-cutter application of valuation methods and accounting allocations typically cannot withstand close scrutiny. Instead, we base our analyses on a thorough assessment of the market(s) in which the IP is used or transacted.

Transfer Pricing

NERA helps its clients minimize tax risk resulting from transfer prices and to optimize the use of their global resources. We specialize in providing clients with transfer pricing advice and solutions in the areas of pricing strategy, conflict resolution, collaboration with tax authorities, and global regulatory services.

Statistical Sampling and Survey Design

Our surveys can identify how consumers choose among service or product configurations, which attributes or product claims influence purchase decisions, and whether certain names or designs have achieved meaning in the marketplace. Our statisticians and economists combine expert knowledge of sampling techniques, survey administration, and analysis of complex data sets with a firm grounding in statistical principles and practice.

Recent Publications

“Off The Wagon” *Commercial Dispute Resolution*
By Dr. Alan Cox

“Intellectual Property: Risks Associated with Litigating or Settling Pharmaceutical Patent Matters” *European Journal of Risk Regulation* By Dr. Richard Rozek

“Standard Setting: Should There Be a Level Playing Field for All FRAND Commitments?” *Antitrust Chronicle* By Dr. Nadia Soboleva and Dr. Lawrence Wu

“25 Percent, 50 Percent...What’s In A Number?” By Dr. Christine Siegwath Meyer and Dr. David Blackburn

About NERA

NERA Economic Consulting (www.nera.com) is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For over half a century, NERA’s economists have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world’s leading law firms and corporations. With its main office in New York City, NERA serves clients from more than 25 offices across North America, Europe, and Asia Pacific.

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