

At A Glance

Intellectual Property

Overview

Intellectual property (IP) rights are foundational to the US economy. Appropriate enforcement and proper valuation of those rights is necessary and vital for economic efficiency. Businesses, courts, and policymakers recognize the need to use accepted economic principles to understand and address complex IP matters. With this amplified focus on quantitative economic analysis, NERA is widely recognized as a leading provider of expertise in the economics of IP in many industries, including life sciences, music licensing, high tech, telecommunications, and consumer products. 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 at 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, Canada, Europe, Asia, and Australia, our capabilities are well-matched to the demands of a global market.

Our Focus and Expertise

Economic 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. NERA economists are experienced in calculating damages based on lost profits, unjust enrichment, reasonable royalties, and price erosion. 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.

Commercial Success

NERA frequently evaluates the marketplace success of products and the nexus of that success to patented inventions. This analysis is relevant to an inquiry regarding whether the patented invention is obvious and therefore invalid.

Irreparable Harm

NERA economists help to determine whether an IP owner may suffer irreparable harm caused by the sale of an infringing product, in connection with a hearing about a potential preliminary or permanent injunction.

Trademark Claims

NERA consultants employ sophisticated analytic tools to assess the impact of alleged trademark or trade dress infringement. In addition to analyses of damages in such contexts, NERA's experts also collect and evaluate survey evidence relating to confusion, secondary meaning, and damages.

IP and Antitrust

NERA economists often work on issues at the intersection of antitrust and IP, 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, antitrust counterclaims, patent misuse, patent settlements, unfair competition, licensing, mergers, and damage assessments.

Valuation of IP

NERA economists understand that proper and defensible valuation of IP assets, whether for litigation, arbitration, or non-dispute settings, 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

NERA's survey experts are highly skilled in designing surveys to 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

Alan Cox, David Almeling, Walter Bratic, Monte Cooper, and P. Anthony Sammi, "Disputed Issues in Awarding Unjust Enrichment Damages in Trade Secret Cases," *The Sedona Conference Journal*, Vol. 19, Number 2, 2018.

Alexandre Carbonnel, "Generics and Back Margins: Why Is the Assessment Unchanged since 2013," 2018.

Christine Siegwarth Meyer, Alan Cox, and David Blackburn, "Calculating Damages in Patent Infringement," *Corporate Disputes Magazine*, July–Sept. 2016.

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. We bring academic rigor, objectivity, and real world industry experience to bear on issues arising from competition, regulation, public policy, strategy, finance, and litigation.

NERA's clients value our ability to apply and communicate state-of-the-art approaches clearly and convincingly, our commitment to deliver unbiased findings, and our reputation for quality and independence. Our clients rely on the integrity and skills of our unparalleled team of economists and other experts backed by the resources and reliability of one of the world's largest economic consultancies. 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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