Michael A. Einhorn is an economic consultant and expert witness in the areas of intellectual property, media, entertainment, technology, trademarks, publicity rights, and product design. He received a B.A. from Dartmouth College, a Ph. D. in economics from Yale University, and is the author of *Media, Technology, and Copyright: Integrating Law and Economics* (Edward Elgar Publishers, 2004). He is also a former professor of economics at Rutgers University and the author of seventy professional and academic articles related to intellectual property and economic analysis.

Dr. Einhorn has provided valuation services in the following areas as a consultant or expert witness:

**Music:** *Recording artists* (Katy Perry, Led Zeppelin, U2, Madonna, 50 Cent, Usher, Rascal Flatts, LMFAO, Rick Ross, D4L, Aimee Mann, Nappy Roots, Justin Moore, Xzibit, Nelly Furtado, George Clinton, Notorious B.I.G., D.L. Byron), *record labels* (Sony Music, Universal Music Group, Disney Music, Atlantic Records, Rhino Entertainment), *producers* (P. Diddy, Timbaland, Dr. Dre), *publishers* (Major Bob Publishing, Universal Music...
Publishing, Bridgeport Music, Hamstein Music, Chrysalis Music, Kobalt Music), performing rights organizations (SESAC), radio stations (WPNT in Pittsburgh), live venues (World Wrestling Entertainment), and estates (Bill Graham Archives)

Movies and Television  Movies (Paramount/DreamWorks, Bold Films), cable programs (NBCUniversal), musicals (Zorro Productions) product placement (Paxson Productions), treatments (Burnett Productions), soundtrack (Warner Bros. Entertainment), TV programs (World Wrestling Entertainment), radio stations (WPNT in Pittsburgh), live venues (World Wrestling Entertainment), and estates (Bill Graham Archives)


Design, Apparel, and Photography: Apparel (Target Stores, Carol Anderson, Forever 21, Crew Knitwear, Joyce Leslie, Anthropologie), architecture (Sprint PCS, Home Design LLC, Murray Engineering, Turnkey Associates), medical illustrations (Pearson Education Services), photography (Harris Publications, Neil Zlozower, Dana Ruth Lixenberg), sculpture (Marco Domo), cartoons (A.V. Phibes, Melissa Flock), toys (Jakks Pacific), and commercial marketing (Kaufman Global).

Publicity Rights and Estate Valuations: Names and likenesses (Reese Witherspoon, Steve Harvey, Woody Allen, Rosa Parks, Arnold Schwarzenegger, Sandra Bullock, Cameron Diaz, Diane Keaton, Zooey Deschanel, Yogi Berra), estate valuations (Tasha Tudor, Marlon Brando, Bernard Lewis).

Cyberspace: Music services (Apple iTunes, Napster, MP3.com), proprietary software (Centrifugal Force, Frosware), open source software (Jacobsen v. Katzer), electronic publishing (Pearson), video games (Activision), search engines (eUniverse), and domain names (eCommerce).


Antitrust and Commercial Losses: Antitrust, breach of contract, and commercial injury in actions (Los Angeles Rams, AT&T, American Home Realty Network, California Scents, Safmor, Inc., Golden Channels Company of Israel, St. Joseph’s Regional Hospital (College Station, Texas)).
REPRESENTATIVE CLIENTS

New York State Attorney General; New York

Fish & Richardson; Boston

Arnold & Porter; Washington

Baker & Hostetler; Cleveland

Palmer & Dodge; Boston

Hunton & Williams; Washington

Blecher & Collins; Los Angeles

Stokes Bartholomew Evans & Petree; Nashville

King & Ballow; Nashville

Frankfurt Kurnit Klein & Selz; New York

Lavely & Singer; Los Angeles

Davis and Gilbert; New York

Cowan DeBaets Abrahams & Sheppard; New York

Taft Stettinius & Hollister; Indianapolis

Sheppard Mullin Hampton & Richter; Los Angeles

Seyfarth Shaw; Los Angeles

Connolly Bove Lodge & Hutz; Wilmington

Blackwell Sanders Peper Martin; St. Louis

Lipsitz Green Faringer Roll Salisbury & Cambria; Buffalo
Music, Movies, and Television


Joseph Cooper v. Broderick Steven “Steve” Harvey, Northern District of Texas, 2016, report and deposition, breach of contract matter regarding recorded films of comedian/actor Steve Harvey.

Sidney Earl Swanson v. MJJ Productions, Central District of California, 2015, report, copyright infringement matter regarding a musical composition used in a sound recording Chicago by Michael Jackson.


*Daniel Moser v. Raymond Ayala (p/k/a Daddy Yankee), et al., District Court of Puerto Rico, 2014, report, valuation of damages resulting from infringing reproduction and performance rights in Daddy Yankee’s multi-platinum song Rompe.*


*Preston Asevedo v. NBCUniversal Media, et al., Eastern District of Louisiana, 2013, report, estimated damages for commercial artwork used on a Syfy cable television program Dream Machines.*


Rafael Vergara Hermosilla v. The Coca Cola Company, Southern District of Florida, 2010, report and deposition, valuation of defendant profits resulting from infringement of song Wavin’ Flag in an international advertising campaign for the World Cup.

Chris Lester v. U2, Apple Computer, and Universal Music Group, Central District of California, 2009, report and deposition, estimated damages from copyright infringement involving U2’s song Vertigo used in concerts and recordings.


Charles Watt v. Dennis Butler, et al., Northern District of Georgia, 2009, report, estimated copyright damages involving platinum release Betcha Can’t Do It Like Me by rap group D4L.

The Jackson Sisters v. Universal Music Group, Superior Court of the State of California, 2008, consultant, assisted classic recording act for recovery of damages for unfair trade practices in use of legacy materials in sound recording.

MCS Music America, Inc., et al. v. Napster, Inc., et al., Central District of California, 2008, consultant to music publishers in copyright infringement matter involving limited downloads and subscription streaming by the digital music service Napster.


Velocity Entertainment Group v. NBC Universal and Donald Trump, 2006, Los Angeles Superior Court, Los Angeles, California, consultant, valuation of treatment used in popular reality television show, The Apprentice.


*TMTV Corp. v. Televisicentro de Puerto Rico, Inc.*, District Court of Puerto Rico, 2005, report, estimated damages resulting from infringement of Puerto Rican *television program*.


*Darryl D. Lassiter, et al., v. Twentieth Century Fox Film Corp.*, Central District of California, 2004, consultant, regarding damages due for use of unauthorized *screenplay in the movie Drumline*.


*Universal Music Publishing Group v. Fitness Quest, Inc.*, Northern District of Ohio, 2003, report and deposition, estimated damages from copyright infringement of *music soundtrack in an exercise video tape*. 


Aimee Mann v. UMG Recordings, Inc., et al., Central District of California, 2002, consultant, estimated sales displacement and loss of income resulting from the unauthorized release of compilation album of Aimee Mann.


Trademarks, Trade Secrets, and False Advertising


*House of Auth, LLC v. 721 Bourbon, Inc.*, District of Connecticut, 2016, report, regarding damages from trademark infringement of beverage

*Events Media, Inc. v. The Weather Channel, Inc.*, District Court of New Jersey, 2015, report and deposition, trade secret infringement by major cable network *The Weather Channel*.


*Benchmark Young Adult School v. Launchworks Life Services LLC*, Southern District of California, 2014, report, valuation of damages resulting from infringement of plaintiff’s business name by competing health care provider.


Doctor’s Associates, Inc. v. QIP Holder, LLC and IFilm, Corp., District Court of Connecticut, 2008, consultant, reviewed expert materials in false advertising matter involving Subway and Quizno’s.

Publicity Rights


Timed Out v. Red Tie Gentlemen’ Club., No. Dist. of California, 2019, consultant, valuation of damages resulting from use of images of glamour models by adult nightclub in California.


Jason Lezak v. Active Network, Superior Court of California, 2015, report, valuation of damages involving use of image of Olympic swimmer Jason Lezak in connection with online software application

Sandra Bullock v. ToyWatch USA, Superior Court of California, 2013, opinion letter, valuation of damages involving use of image of actress Sandra Bullock in a commercial website for apparel accessory.


Michelle Pfeiffer, et al. v. CompUSA, Superior Court of California, 2011, report, valuation of publicity rights of Sandra Bullock, Michelle Pfeiffer, Diane Keaton, Mandy Moore,
Cameron Diaz, and Kate Hudson in retail advertisements.


Lawrence “Yogi” Berra v. Turner Broadcasting System, Superior Court of New York, 2005, consultant, valued publicity rights case involving the unauthorized use of personal name Yogi Berra in citywide advertising campaign.

Rosa Parks v. BMG Music/Laface Records, et al., Eastern District of Michigan, 2004, deposition, valued publicity rights involving use of celebrity name Rosa Parks in a BMG album bearing the name and track Rosa Parks.

Melina Kanakaredes v. Ouidad, Inc., Eastern District of Ohio, consultant, 2004; publicity rights case involving damages resulting from magazine articles bearing actress name Melina Kanakaredes.

Design, Apparel, and Photography


Radix Textile, Inc. v. Anthropologie, Inc., et al., Central District of California, 2015, report, valuation of damages resulting from copyright infringement of apparel design by major clothing chain.

Klauber Brothers, Inc. v. Forever 21 Retail, Inc., et al., Central District of California, 2015, report, valuation of damages resulting from infringement of copyrighted apparel design by a major apparel chain.


Timpco v. Implementation Services, Southern District of Indiana, 2009, report, valuation of damages resulting from copyright infringement of commercial marketing materials.


Technology and Cyberspace


Brian Lemper, M.D. v. Legacy IP, LLC, Superior Court of Nevada, 2015, deposition, matter involving purported breach of contract in procuring patent application for medical technology.

Cellebrite Mobile SyncRonization Ltd. v. Micro Systemation AB, Northern District of Virginia, 2014, report, estimated damages for copyright infringement of intelligence software designed to remove records from suspect cell phones.

Scott E. D. Skyrm v. Newedge USA, LLC, FINRA Dispute Resolution #12-02346, 2014, testimony, valuation of damages resulting from copyright infringement of data format in online financial newsletter.


TVB Holdings (USA), Inc. v. Tai Lake Communication, Inc., Central District of California, 2013, report, regarding economic harm created by circumvention device that breached access and copyright protection on Asian programming.


Carpal Therapy, Inc., and David Graston v. Jennifer Graham, Esq., Marian County Superior Court of Indiana, 2008, report and deposition, estimated commercial losses for inventor of medical technology for loss of rights to intellectual property.


RIAA v. MP3Board, Southern District of New York, 2001, report and deposition, involving the economic effects of search engines that post links to infringing material.


Private Valuations of Intellectual Property

Juarez Foods, 2015, trademarks now controlled by Wise Foods, Atlanta.

Tom Binns Design, LLC, 2015, trademarks and copyrights controlled by the international jewelry concern Tom Binns Design, LLC.

The Domain Names of eCommerce, IX Web Hosting, and Host Excellence. 2012, domain names and websites owned by online business.

The Estate of Tasha Tudor, 2009, valued the worth of publishing royalties due to the estate of renowned author and illustrator.

New York Observer. 2008, domain name of political blog.

Greens Today, 2006, trademarks for greens health product.

Bernard Lewis, 2005, future publishing royalties due to Princeton professor and writer of twenty four books on politics and history.

Estate of Marlon Brando. 2005, consultant, valued worth of the Marlon Brando name for estate purposes.
Commercial Losses, Wrongful Termination, and Personal Injury


*Pansy Harris-Lane, M.D. v. Jersey City Medical Center, et al.*, Superior Court of New Jersey, 2017, report, valued professional damages resulting from disputed termination of medical doctor.


*Crystal Evans v. Meadowlands Hospital*, Superior Court of New Jersey, 2012, report and testimony, examined economic losses resulting from medical malpractice.


*Peter Piegdon v. H&S Bakery*, Superior Court of New Jersey, Middlesex County Court, 2007, report and deposition, calculated economic losses from automobile accident.


Antitrust


AT&T Corp. v. Winback and Conserve Program, Inc., et al., New Jersey District Court, 2003, consultant, calculated commercial losses suffered by third party telecom provider for improper termination of AT&T wholesale service.

Prime Communications, Inc. v. AT&T Corp., Eastern District of Massachusetts, 2002, report and deposition, examined liability in antitrust lawsuit involving vertical restraints in access to cable advertising.


SESAC v. WPNT, Western District of Pennsylvania, 2001, report and deposition, antitrust case involving the economic consequences of blanket licensing of musical compositions.


PUBLISHED BOOKS

Media, Technology, and Copyright: Integrating Law and Economics, Edward Elgar, 2004

ARTICLES AND CHAPTERS

See also http://mediatechcopy.com/?page_id=71


The ASCAP and BMI Consent Decrees: Is Partial Withdrawal Wise?, Journal of the Copyright Society, Fall, 2014


Copyright Settlement Strategies from a Damages Expert, GPSOLO, September, 2008.


How Advertising and Peer to Peer are Transforming Media and Copyright, Journal of the Copyright Society, Spring, 2007.


Whose Song is it Anyway?: Infringement and Damages in Musical Compositions, Entertainment and Sports Lawyer, Spring, 2004; new version at Damage Valuation in Music Copyright


Tying, Patents, and Refusal to Deal: Economics at the Summit, 2 Economics Committee Newsletter of the American Bar Association 1, 2002.


Search and Destroy: How to Tame a Spider, IPL Newsletter 1, 2001.

“Biting the Hand that Feeds”, Century City Lawyer, November, 2001, with Duncan Cameron.

UNPUBLISHED ARTICLES

Reasonable Royalties in Patent Litigation: Methods, Evidence, and Experts

Trademarks and Financial Remedies: Standards in the Common Law

Trademark Valuation and Market Analysis

Pharmaceuticals and Compulsory Licensing

Trademarks, Injunctions, and eBay v. MercExchange

Publicity Rights and Rational Valuation

Art as Innovation: “The Wind Done Gone” Case

Market Imperfection and Failed Governance: The Case of Music Performance Rights

Information Transfer in Cyberspace: Popups, Keying, and Privacy

Copyright Settlement Strategies from a Damages Expert

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