

University of San Diego School of Law  
March 14, 2019

# Investigating Online IP Infringement and Calculating Damages for Internet Related Disputes

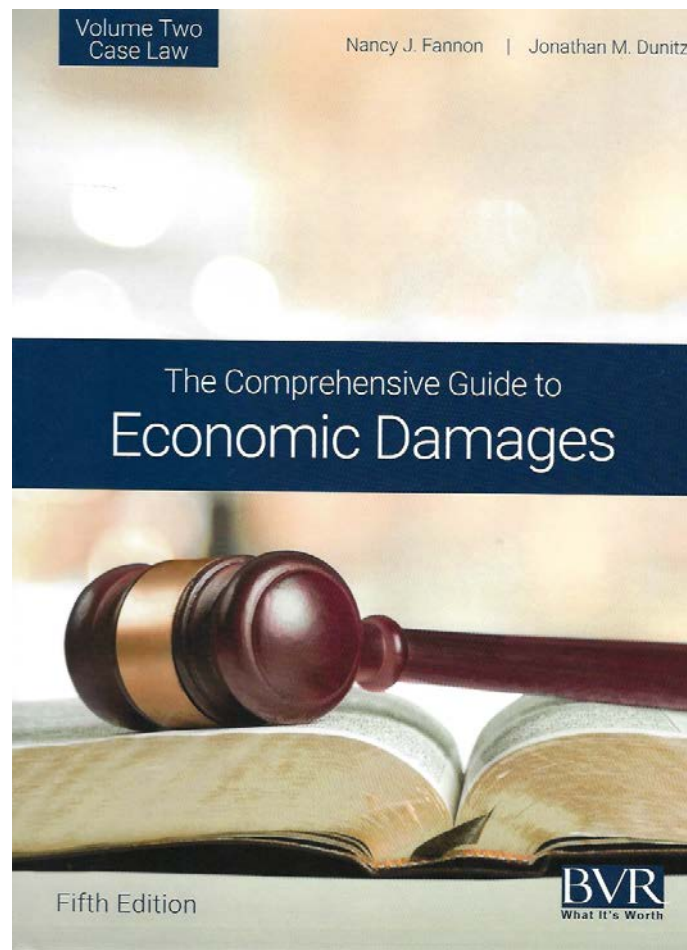


**Doug Bania & Brian Buss**  
Nevium Intellectual Property Consultants  
[www.nevium.com](http://www.nevium.com)



# Introduction

## The Comprehensive Guide to Economic Damages – Fifth Edition



# Introduction

## The Comprehensive Guide to Economic Damages – Fifth Edition

### Chapter 30.

#### Using Internet Analytic Tools for Valuation and Damages Calculations in Internet IP Infringement and Defamation Cases

---

By Doug Bania, CLP, and Brian Buss, CFA

##### 1.0 Introduction

Use of the internet and social media has become an increasingly essential element of conducting business in the United States and globally, which in turn raises new issues for calculating damages and performing valuations. With almost every business now using the internet and social media to conduct business, cases of internet IP infringement, IP misuse, and defamation have increased and evolved. Before the rise of these new media, cases of infringement and defamation typically occurred in print or on television and were visually obvious. Today, however, infringement and misuse via the internet can be hidden in metadata or keywords and may not be visually obvious. Such misuse was usually also geographically constrained to the area or region where the actual misuse occurred or was broadcast. In the world of traditional media, the number of people who would have been exposed to a billboard, sign, or even a television show could only be estimated at best. Today, anyone in the world could possibly see internet infringement, and a social media post can immediately go viral.

This chapter describes the ways in which internet and social media analytics can be used to accurately measure and quantify the spread, awareness, and impact of IP misuse. In doing so, it explores the overlap between internet and social media analysis and intellectual property analysis and provides examples showing the use of the data as part of traditional valuation and damages analyses.

This chapter begins with a brief discussion of four concepts key to understanding effective internet use and analysis that valuation experts will want to clarify for clients, judges, jurists, or mediators: *search, optimization, social media, and analytics*. It then discusses the principles and readily available tools that analysts can use to uncover facts essential to determining whether clients have a defensible case for legal action and to what financial damages they may be entitled.

##### 2.0 Key Concepts of Internet and Social Media Analysis

Internet and social media analysis assignments begin with the process of educating the audience (i.e., client or trier of fact) about how important the internet has become to the success of a business. The client and participants in a possible court case need to understand that the internet is no longer primarily a source of information and entertainment but a serious business platform. Most businesses have at least a website, and a rapidly increasing number utilize a combination of websites and social media to promote their business and connect with customers. The internet has replaced the Yellow Pages as the first place potential customers turn to find a product or service, and the plethora of books, publications, and websites offering internet and social media-oriented advice to business owners is testimony that the internet has become an essential part of virtually every company's advertising.

### Chapter 31.

#### Profit Apportionment in Intellectual Property Infringement Damages Calculations

---

By Brian Buss, CFA, and Doug Bania, CLP

##### 1.0 Abstract

When calculating damages in intellectual property cases, many circumstances require a profit apportionment analysis. Specifically, profit apportionment is needed in cases where the damages calculation involves determining the portion of the defendant's ill-gotten gains due to use of the disputed intellectual property in unjust enrichment claims, or the portion of the plaintiff's losses related to use of the disputed intellectual property in lost profit claims. While profit apportionment is not appropriate for every damages calculation, when it is, analysts often find themselves in a quandary as to exactly how to complete such an analysis.

While the concept of apportioning profits has been used to value intellectual properties in many other contexts, few if any established processes have been established to apply profit apportionment for damage calculations in intellectual property (IP) infringement litigation. When damages analysts are asked to apportion profits in litigation, they lack a consistent framework to do so in an orderly, effective, and ultimately convincing way.

This chapter outlines a four-step process for addressing the question of profit apportionment when developing a damages calculation in IP litigation. The process described offers a framework for assessing the specific portion of reported profits that the infringing use of the disputed IP contributed. This framework is intended to enable damages analysts to consistently analyze the economic contribution IP assets make and clearly present profit apportionment conclusions.

##### 2.0 Introduction

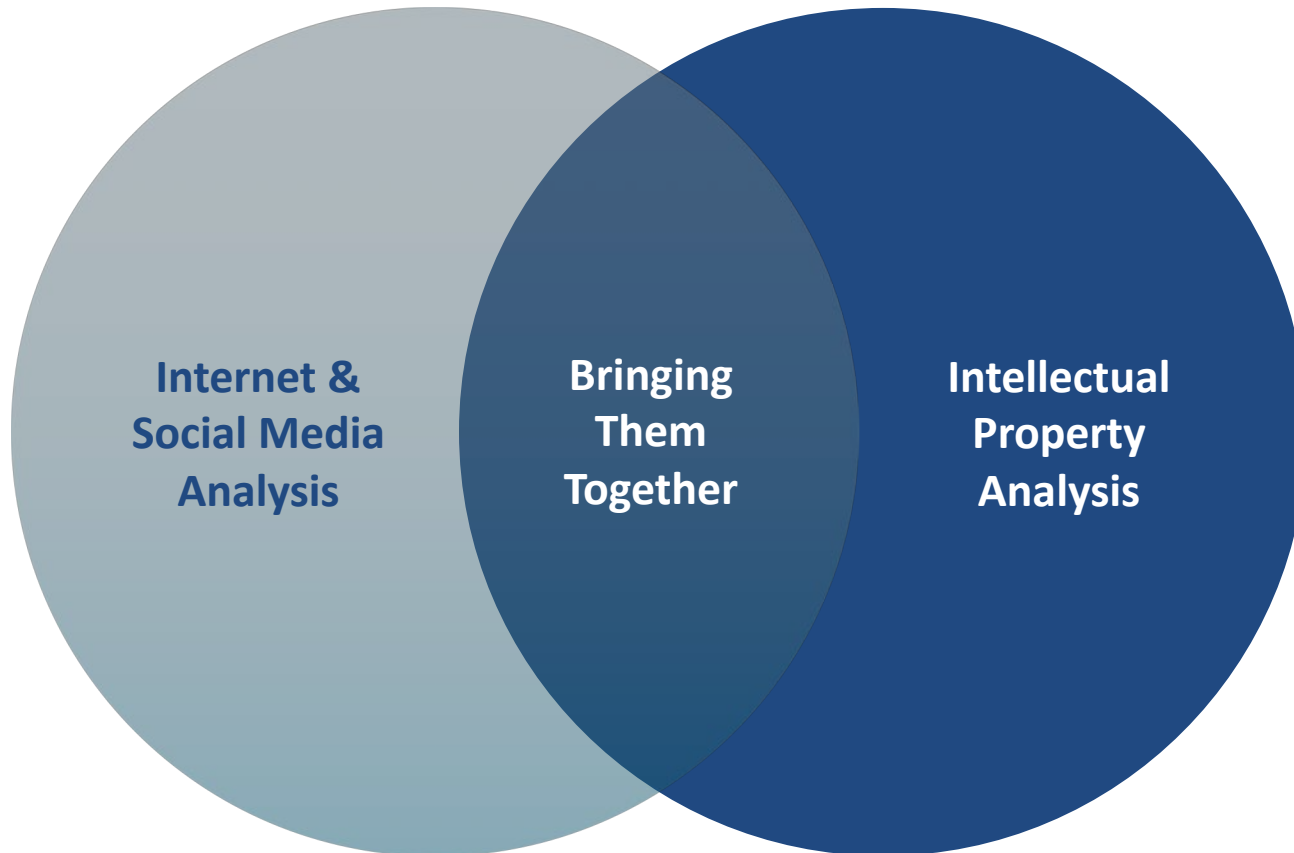
###### 2.1 An Apportionment Situation

Consider the following situation: Two companies compete for sales in the same market. Company A has a patent covering claims for certain components of its product. Company B does not have a patent. Both Company A and Company B are well known in the industry and use their own distinct trade names and trade dress. Company A has proven that one of the components in Company B's product infringes its patent.<sup>1</sup> Company B has provided data indicating the amount of revenue and profits it achieved from sale of the accused products.

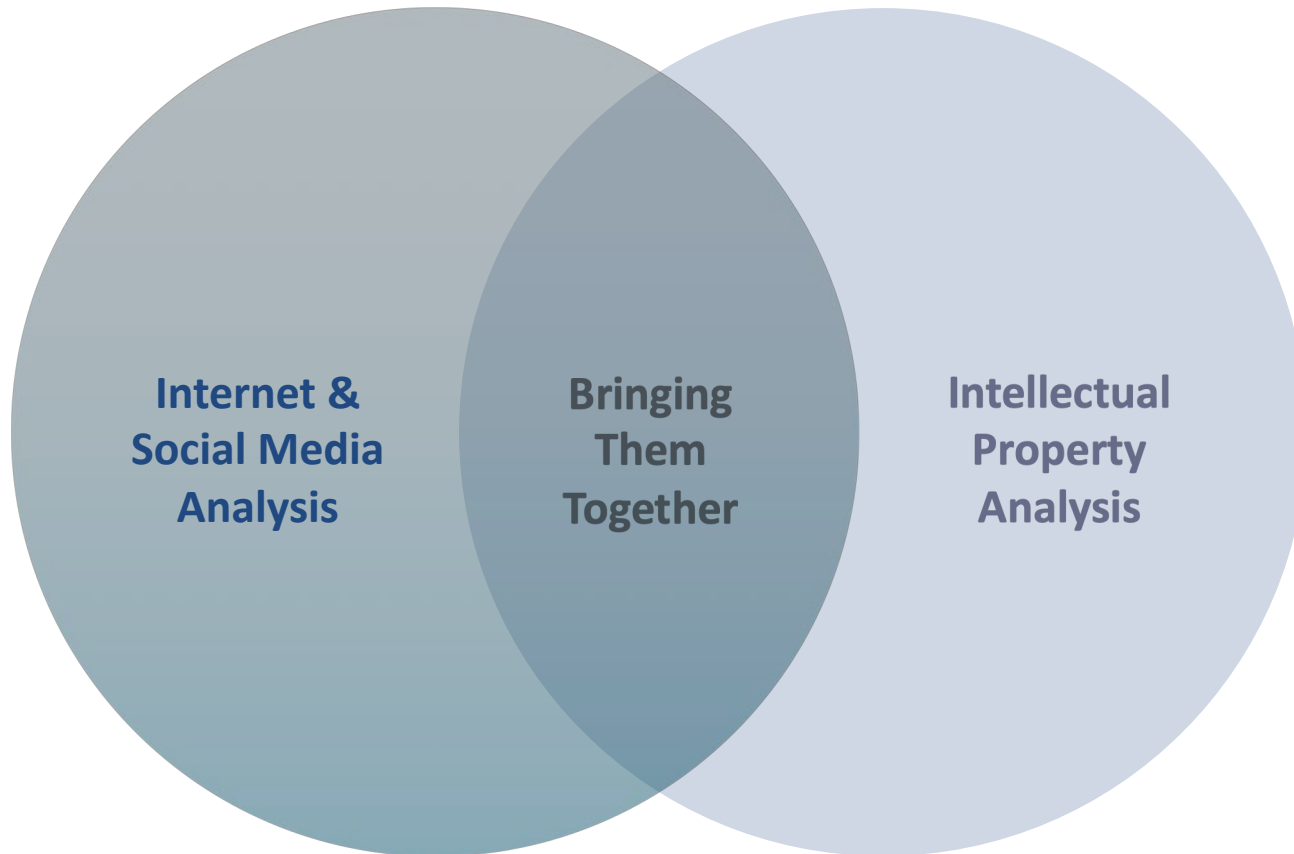
<sup>1</sup> For this chapter, the discussion assumes the plaintiff has been able to prove liability and that the defendant is liable for economic damages. The analyst tasked with quantifying economic damages is not considering whether the plaintiff is liable, only the amount of damages. This chapter addresses only the calculation of economic damages and the process presented does not address the issue of liability.

# Introduction

**A Financial and Economic Perspective on Internet & Social Media IP**

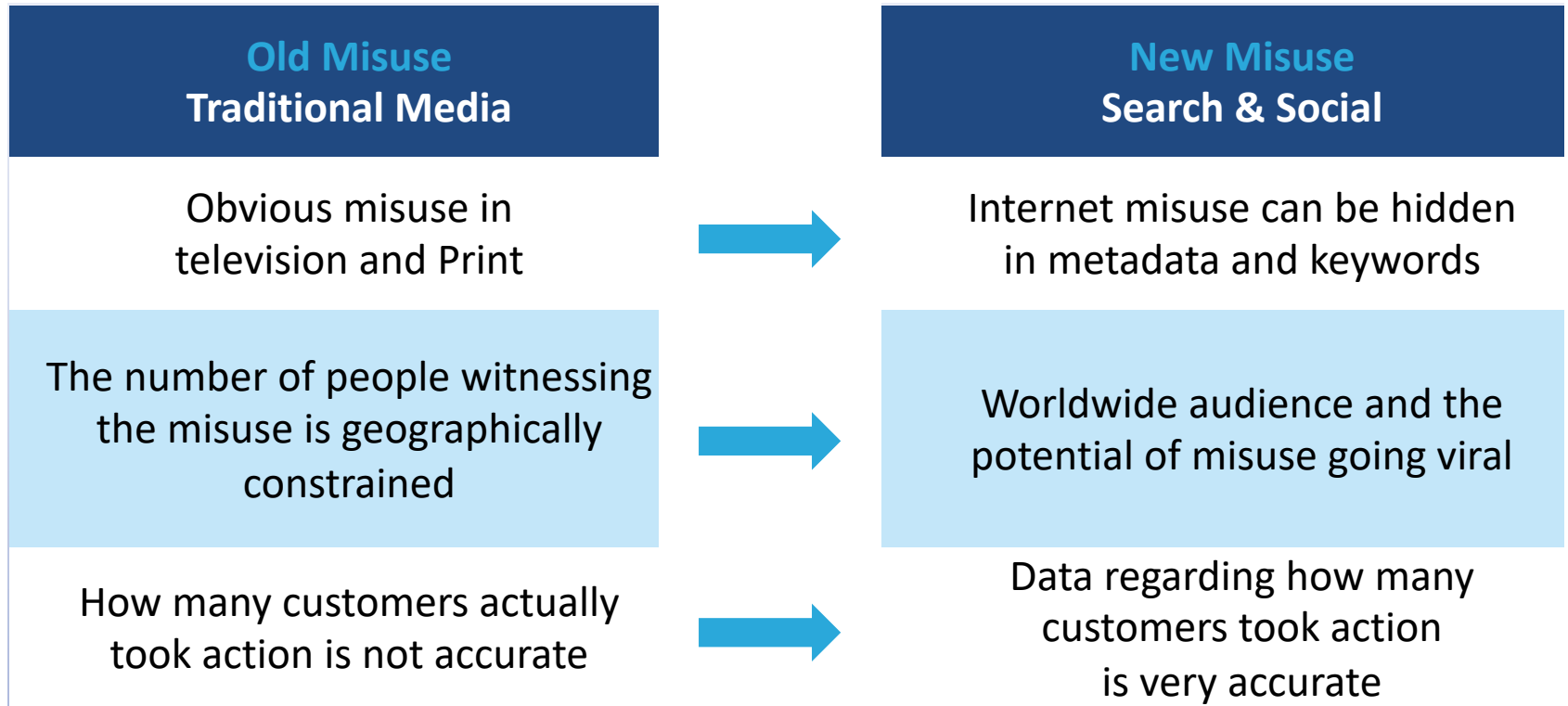


# Analysis of Internet & Social Media Activity



# Old World v. New World Infringement

Internet Misuse Can be Accurately Measured and Quantified



# The Tools

## Three Tools to Improve Valuation and Damages Analyses

### Search Optimization

- Comparing actual use to SEO best practice
- Factors that contribute to better organic search results

### Site Traffic Sources

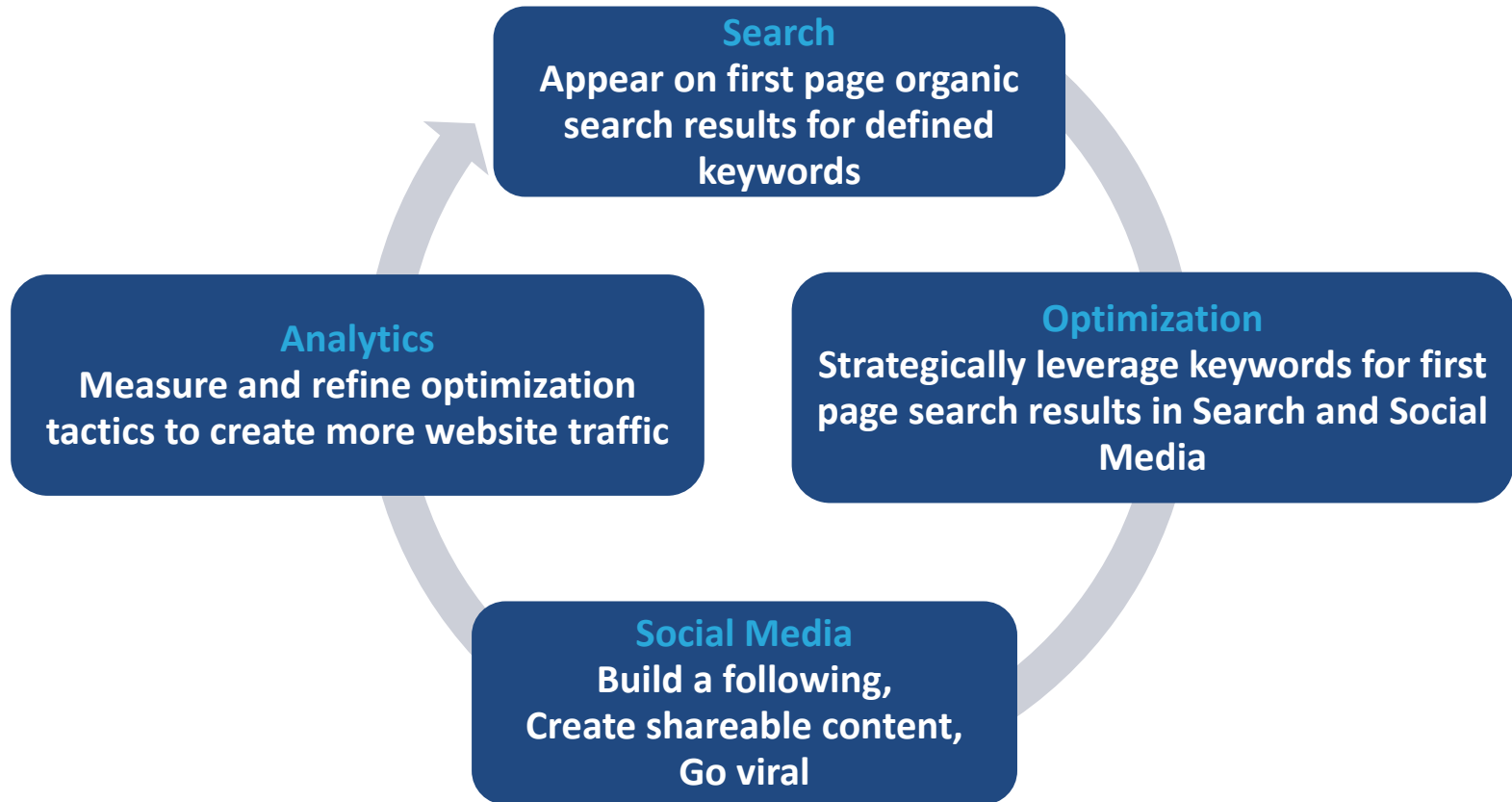
- Using Site Analytics data to identify source of site traffic
- Timing and volume of site traffic
- User behaviors at the Site

### Internet & Social Media Advertising

- Paying to achieve Impressions, Reactions and Click-through
- Costs avoided when using IP to drive organic Impressions and Click-through

# Key Concepts of Internet Use: Business Owner

The Internet is the New Corner Store, and Foot Traffic is Search & Social





# Key Concepts of Internet Analysis

Search + Social + Optimization + Analytics = Defensible Analysis



# Educating the Audience

Educate First to Set the Stage for Your Calculations

***Valuation and damages experts must educate their audience regarding the basics of search & social prior to approaching an analysis or calculation***

# Educating the Audience

Any Analysis or Valuation Using Internet & Social Tools Starts Here

## **Growing importance of the Internet for businesses**

The Internet is a huge place to promote business

## **Search and How it Works**

Internet is a huge library with billions of books, search engines are the tools to find information

## **Importance of First Page Search Results**

First page is worth the fight

## **Importance of Social Media**

Key platforms for marketing and building demand

## **Use of Metadata and Optimization**

First page search results are not an accident

## **Use and Leverage of Google Analytics**

Google provides tools and tactics

# Case Study: Educating the Trier of Fact About Search

**Defendant used the Plaintiff's TM-protected company name in search optimization and social media**

Two competing construction supply companies had operated in non-overlapping geographies

Both businesses evolved into online retail & distribution of construction supplies and design concepts

Therefore businesses begin to overlap and compete for customers outside their home geography

# Educating: Importance of Search & Social

Of the 9 organic search results, over 50% are for the Defendant

Defendant: Second and Third organic search result

Defendant: Social Media sites

Shop The Company Store -- It's Springtime  
www.thecompanystore.com  
Start-Up with 20% Savings and Free Shipping from 1000  
Comforters  
Duvet & Comforter Covers  
Blankets  
Bedding

The Company (2003) - IMDb  
www.imdb.com/title/tt0200012  
Rating: 6.2/10 - 4,844 votes  
The Company (2003) - A behind-the-scenes look at the world of iconic The Company  
-- Ensemble stars centered around a group of hotel owners, with a...  
Watch: Full Cast & Crew - Plot Summary - User Reviews

The Company (TV Mini-Series 2007) - IMDb  
www.imdb.com/title/tt0490000  
Rating: 7.8/10 - 3,284 votes  
The Company (2007) - A mini-series that traces CIA activities over a 40+ period.  
Michael Hudson at court of The Company (2007) Bill of Ours O'Donnell and...  
Episode: Full Cast & Crew - Guide - Trailers

The Company - Wikipedia, the free encyclopedia  
en.wikipedia.org/wiki/The\_Company  
The Company may refer to:  
The Company (TV miniseries), a miniseries about the  
CIA based on the above list item.  
The Company (novel), a novel...  
The Company (album) - Wikipedia, the free encyclopedia  
en.wikipedia.org/wiki/The\_Company\_(album)  
The Company is a 2005 film about the Jeffrey Baker of Chicago. It was released on  
September 26, 2005 in the United States and around the world in the first half

T.H.E. Company - Tom Hassenfratz Equipment Company  
www.the-company.com  
This online store for all your Agricultural and Lawn & Garden parts. We also have a wide  
selection of aftermarket parts for Tractors, Combines, Planters.

Bedding: We're All About Comfort | The Company Store  
www.thecompanystore.com  
The finest 100% made bedding, straight to your door. Sheets, comforters and more in every  
color and pattern, using only the finest natural fibers.

The Company: A Novel of the CIA - Amazon.com  
www.amazon.com/The-Company-A-Novel.../dp/B000000000  
The Company: A Novel of the CIA (Robert Ludlum) on Amazon.com. "1982" shipping on  
qualifying offers. This critically acclaimed blockbuster from internationally...

The Company  
www.thecompany.com  
The Company - Focus Online Reader - Home - Article - By George... Summary of The  
Company Announcements: 2011/04/28 2:48 pm. Votes: 28 Comments.

The Company - Rotten Tomatoes  
www.rottentomatoes.com/m/the-company  
Rating: 71% - 128 reviews  
While convenient, its deliberately unbalanced narrative may frustrate some viewers, but  
the Company's stark realism generally speaking, the...

Plaintiff's paid result

Plaintiff: First organic result

First page of organic search results

Plaintiff: Ninth organic result

# Educating: Analyzing Code to Determine SEO

## The Site's Code can be "read" to Investigate SEO Strategies

Tactic	Use at SampleCompany.com	Likely Result
<b>Use key terms in Title Tag</b>	<code>&lt;title&gt;The Company, Sales and Structure Designs&lt;/title&gt;</code>	The title tag "The Company" alerts both the search engines and the user as to the topic of that particular page
<b>Use key terms in the URL</b>	<code>http://www.sample.com/about-the-company</code>	This URL contains the keywords "The Company" which provides users and search engines more information about the page
<b>Use key terms in the Description</b>	<code>meta name="description" content=";The Company has been selling since 1972. Click here to find out more about sales, structure and The Company." /&gt;</code>	The description meta tag provides the search engines a summary of what the page is about
<b>Use key terms in the Keywords</b>	<code>&lt;meta name="keywords" content="sales, structure, the company, green supplies, The Company, Sample Company, samplecompany" /&gt;</code>	If a search engine finds specific key terms throughout the content of the website and in the keyword meta tags, that website will likely be ranked higher in search results

# Educating: Use & Application of Google Search Tools

Keyword "Intellectual Property Valuation"

## Paid Search Results

The screenshot shows a Google search for "intellectual property valuation". At the top, the search bar contains the query. Below the search bar, there are tabs for "All", "News", "Images", "Shopping", "Maps", and "More", along with "Settings" and "Tools". The search results are displayed below. The first result is a paid advertisement for "Expert Valuation of IP | Serving Global Base Since 2003" by Crec. This result is highlighted with a red box and labeled "Paid result". Below the advertisement is a featured snippet for the same topic, also highlighted with a red box and labeled "Featured Snippet". The snippet provides a description of intellectual property valuation and a link to a YouTube video. Below the featured snippet is a section titled "People also ask" with four questions: "What is IP value?", "Can you sell intellectual property?", "Is intellectual property an asset?", and "How do you evaluate a patent value?". The final result is an organic search result for "Intangible Asset & Intellectual Property Valuation: A Multidisciplinary ..." with a link to a PDF document. This result is highlighted with a red box and labeled "Organic result".

Organic search results are influenced by SEO

Paid search results are driven by Adwords

Google's Keyword Planner helps marketers select and purchase keywords, with the objective of appearing in search results for the selected terms

The visible distinction between Paid and Organic results has diminished

Marketers are paying Google (and search engines) to appear in your searches

*Paid search also provides useful data*

# Educating: Use & Application of Google Search Tools

## Paid Search Results, Adwords, and The Keyword Planner Tool

Google AdWords

### Keyword Planner

Where would you like to start?

Find new keywords and get search volume data

Search for new keywords using a phrase, website or category

Enter one or more of the following:  
Your product or service  
intellectual property valuation **Keyword**

Your landing page  
www.example.com/page

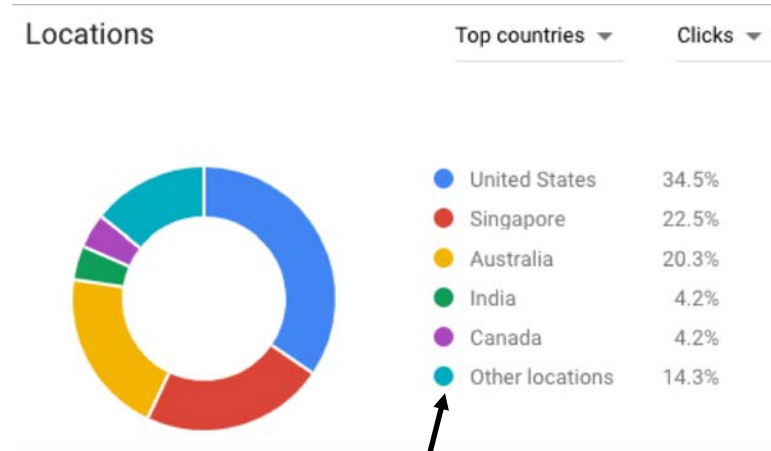
Your product category  
Enter or select a product category

Targeting ?  
United States  
All languages  
Google  
Negative keywords

Customize your search ?  
Keyword filters  
Keyword options  
Show broadly related ideas  
Hide keywords in my account  
Hide keywords in my plan  
Keywords to include

Date range ?  
Show avg. monthly searches for: last 12 months

Get Ideas



% of Searches from selected territories

Suggested High Top of Page PPC \$Rate

<input type="checkbox"/> Keyword (by relevance)	Avg. monthly searches	Competition	Ad impression share	Top of page bid (low range)	Top of page bid (high range)
<input type="checkbox"/> intellectual property valuation	100 - 1K	Low	-	\$3.00	\$15.00

Average Monthly Searches, from all Search Users

Suggested Low Top of Page PPC \$Rate



# Case Study: Application of Google Keyword Tools

## Defendant Used the Plaintiff's Trademark on Line of Furniture

Defendant Omnia Italian Design used Plaintiff Stone Creek's brand name on furniture manufactured for retail client

Infringing furniture had quality craftsmanship, made in USA, fast turn-around, fee local shipping, customization and low prices

Google Keyword Planner was used to prove that infringing brand name was unknown in trading territory, therefore, purchases were made for other reasons than brand name

# Case Study: Application of Google Keyword Tools

## Defendant Used the Plaintiff's Trademark on Line of Furniture

Summary of Average Monthly Searches in Store's Territory		
Store Name	Searches for Store Name	Searches for "Stone Creek"
Bon-Ton	60,500	10
Carson's	90,500	10
Younkers	135,000	10
Herberger's	135,000	10
Elder-Beerman	74,000	10
Boston Store	74,000	10
Bergner's	45,000	10
<i>Google rounds nil results to the nearest 10</i>		
"Stone Creek" in Arizona		<b>1,000</b>

*Using the Google Keyword Tool, we convinced the Judge that the Stone Creek brand name was essentially unknown in the Bon-Ton trading territory*

# Case Study: Application of Google Keyword Tools

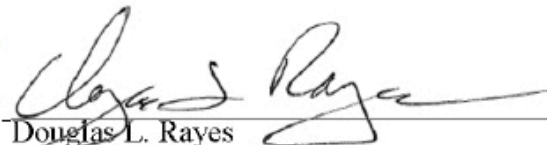
## Defendant Used the Plaintiff's Trademark on Line of Furniture

102. The evidence supports a finding that separate markets prevented the likelihood of confusion:

- A. Consumers in the BTTT were unaware of Stone Creek;
- B. The vast majority of Google searches for Stone Creek Furniture originate in Arizona;
- C. The number of Google searches for the Stone Creek website from the BTTT were negligible;
- D. Stone Creek had no brand awareness in the BTTT;
- E. There was no actual confusion by a consumer in the BTTT purchasing Omnia STONE CREEK furniture.

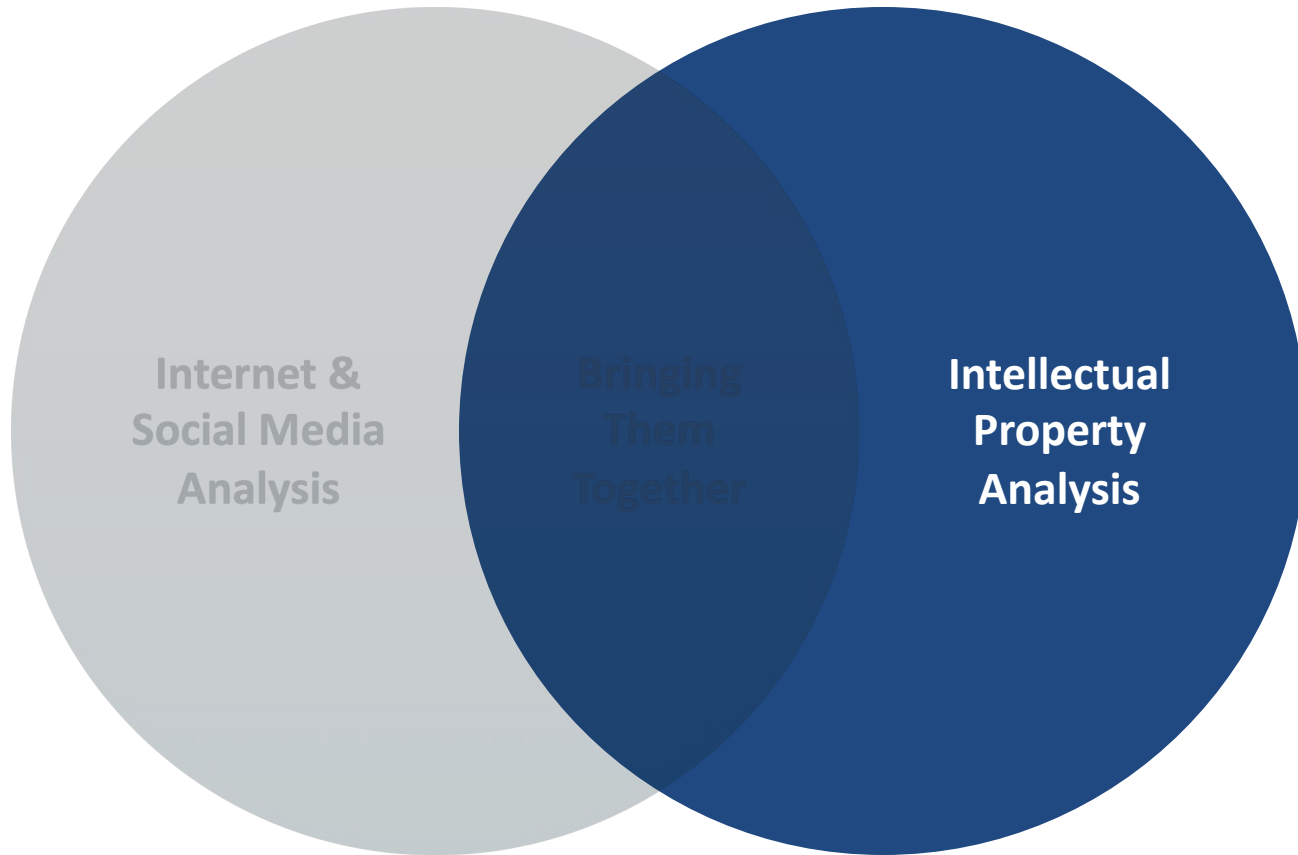
103. Omnia is not liable to Stone Creek on any of Stone Creek's claims. Accordingly, **IT IS ORDERED** finding in favor of Defendant Omnia Italian Designs, Inc., and against Plaintiff Stone Creek, Inc. on all counts and all causes of action. The Clerk shall enter judgment in accordance with this Order.

Dated this 9th day of November, 2015.

  
Douglas L. Rayes  
United States District Judge

*Data from Google's  
Keyword Tool drove  
the Judge's ruling*

# IP Valuation & Damages for the Internet



# Valuation & Damages Methodologies

Analysis of the Financial / Economic Impact of IP Assets on the Internet Will Employ One or More of These Methodologies

	Standard Methodologies	Internet IP Methodologies
<b>Cost Approach</b>	Cost to replace or replicate	<ul style="list-style-type: none"><li>• Relief from pay per click</li><li>• Value of impressions</li></ul>
<b>Income Approach</b>	Present Value (PV) of future benefits <ul style="list-style-type: none"><li>• Discounted cash flows (DCF)</li><li>• Relief from Royalty</li><li>• Lost Profits / Unjust Enrichment</li></ul>	PV of <ul style="list-style-type: none"><li>• Additional Site Visits / Traffic</li><li>• Additional online transaction or customer inquiries</li></ul>
<b>Market Approach</b>	Study of transactions <ul style="list-style-type: none"><li>• Guideline companies</li><li>• Guideline transactions</li><li>• Industry benchmarks</li></ul>	<ul style="list-style-type: none"><li>• Comparable Pay Per Click</li><li>• Hypothetical license/transaction</li></ul>

*Important to base new analyses on accepted methodologies*

# Drivers of Value

IP Depends on Other Assets and Resources to Generate Economic Benefits



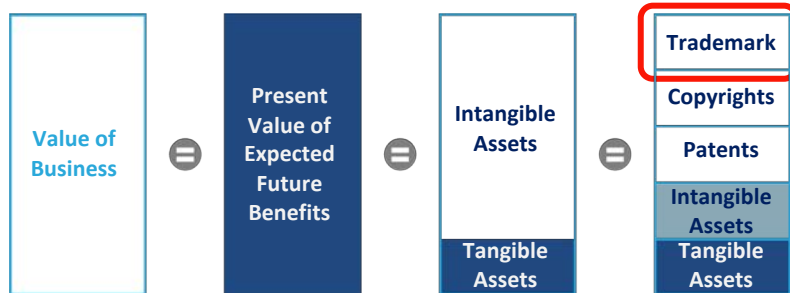
**Business Value > Value of IP Assets owned by the Business**

**Apportionment:** Identify the portion of future benefits derived from use of the IP Assets

# Internet Analytics as an Apportionment Tool

## Apportionment Framework

What is the value of this box?



## Tools to Apportion Economic Benefits

- Website Analytics
- Social Media Analysis
- Comparable licensing transactions (“CUT”)
- Excess profits (“CPM”)
- Feature count and comparison
- Marketing Mix Analysis
- Promotional Use Analysis
- Surveys / Interviews / Focus Groups

*Always best to use multiple tools*

# Understanding the IP Assets

Types of IP Assets Often Misused through Internet-based Mechanism Each Have Unique Implications for Valuation and Damages Analysis

Assets	Analytical Considerations
Trademark & Brand	<ul style="list-style-type: none"><li>• Is the TM used in unseen components of the website?</li><li>• Is the TM used to drive search results</li><li>• What was the exposure to defamatory comments or posts?</li></ul>
Copyright	<ul style="list-style-type: none"><li>• Did the protected content drive traffic?</li><li>• Was the image or content a contributor to a sale or transaction?</li></ul>
Name & Likeness	<ul style="list-style-type: none"><li>• Did the use drive traffic?</li><li>• Was the use akin to an endorsement?</li></ul>
Domain Names	<ul style="list-style-type: none"><li>• Is there a website and how much direct traffic does site receive?</li><li>• How many monthly searches occur using this term?</li></ul>

*Misuse boils down to infringement or defamation*



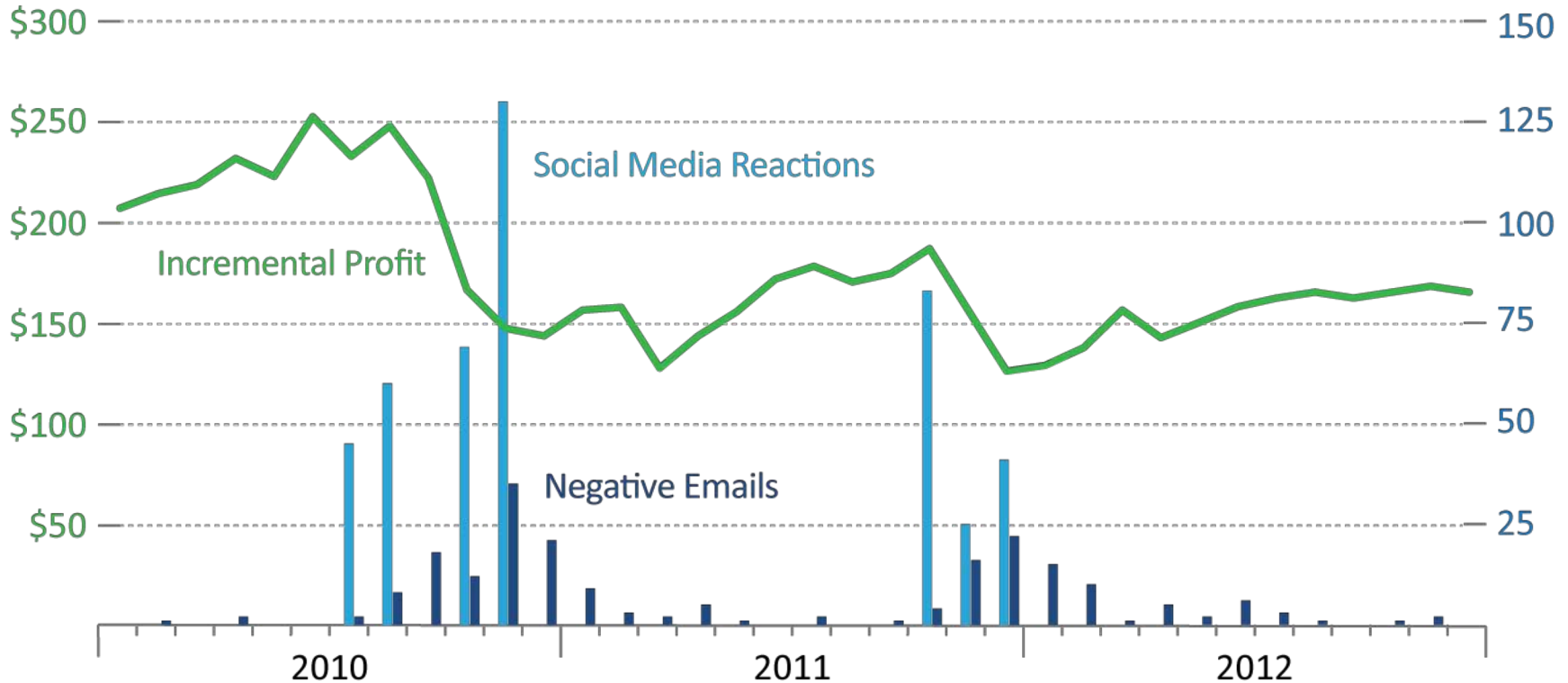
# Google Analytics to Support Unjust Enrichment

## Unjust Enrichment Profits: Traffic at Defendant's Website

Monthly visits due to searches using TM	25,000
Ratio: Visitors who purchased	25%
<hr/>	
TM search purchases	6,250
Average e-commerce purchase	\$250
<hr/>	
Incremental revenue	1,562,500
Ratio: Incremental profit margin	15%
<hr/>	
Incremental profit per month	234,375

*Explain the mechanism, then quantify the impact*

# Social Media Analytics to Support Lost Profits



## Use of Social Media Data

- “Reactions” to defamatory posts and tweets
- Language from posts seen in customer emails

## Use Accepted Methodology

Lost Profits damages = But-for *less* As-is

# Measuring the Return on Online Marketing

Using Search and Social Media Analytics to Measure the Impact of Marketing

Tools to investigate ROP Claims	Available Data
<i>Level of Interest Created</i>	Number of followers Social Media Activity Comparison “Reactions” to posts
<i>Cost to use the Celebrity</i>	Adwords rates (Google and YouTube) Facebook impression and click-thru rates Paid Tweets

*Not all use of a celebrity is the same as an endorsement deal,  
but Celebrities can influence markets*

# Google Analytics in Name & Likeness Claim

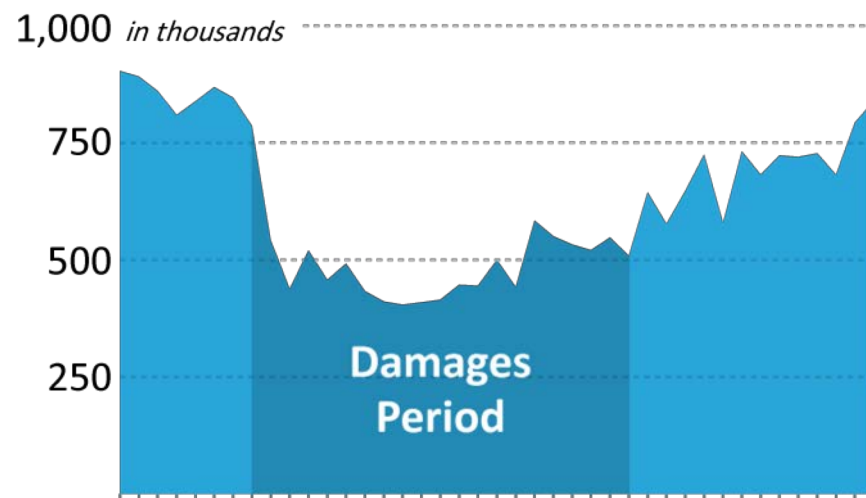
## Search Term Analysis

Top 50 search terms do not include Celebrity's name

Top 50 search terms yielded 49% of total site visits during the Damages Period

Search terms using Celebrity's name resulted in a total of 45 visits during the Damages Period, less than (0.004%)

## Monthly Pageviews at Defendant's Website



*Website traffic declined during the Damages Period*

# Social Media Data in a Relief from Pay Per Click

## Value of Facebook Impressions

### Facebook

Reactions are Likes, Comments and Shares

A Reaction is an “active” response to the Celebrity’s post, and is more valuable than a View

Facebook Charges for Celebrity’s Page		Rate
Impression Price (\$/Impression)	CPM	\$0.00016
Click Price (\$/Click)	CPC	\$0.75

Reactions to Posts Involving the Products	Likes	Comments	Shares
Visit www.product.com make sure to like!	28,921	7,432	657
CELEBRITY Presents PRODUCT	17,528	1,425	412
CELEBRITY in Vegas Introducing PRODUCT	18,256	312	514
<b>Total</b>	<b>64,705</b>	<b>9,169</b>	<b>1,583</b>

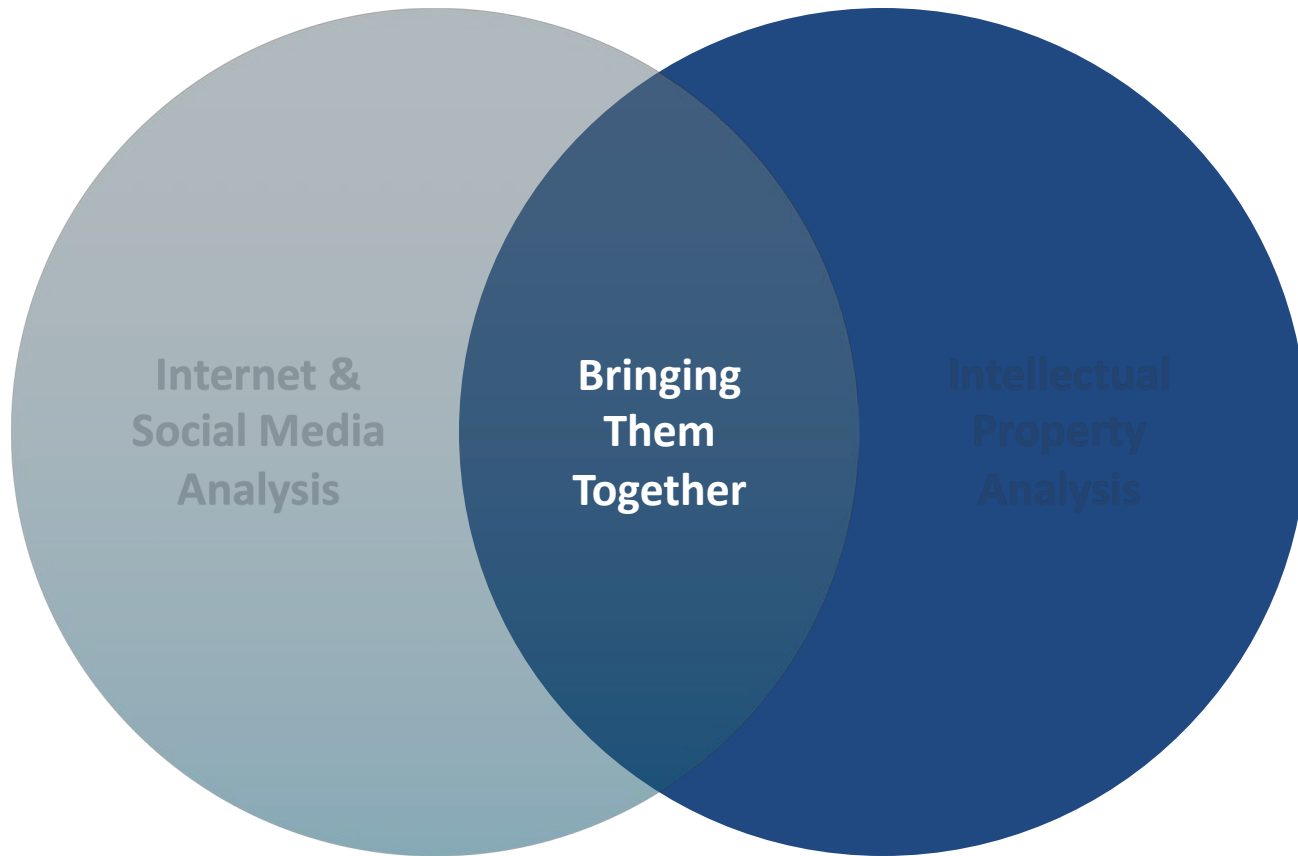
Value of Activity	Count	Cost	Value (\$)
Net Page Likes	34,649,887	\$0.00016	5,544
Post “Likes”	64,705	\$0.75	48,529
Other Reactions (Comments + Shares)	10,752	\$0.75	8,064

Value of Facebook Impressions

**62,137**

*Calculated the costs avoided when using a celebrity endorser*

# Bringing Them Together



# Challenges for the Expert

## What's known about Search & Optimization

- “It's Google's algorithm” there are multiple versions of best practices and no practitioner knows exactly how search engines actually select and place websites
- Adwords rates change over time

## Understand the Context of the Calculation

- Just because a number was calculated, doesn't mean the number is relevant
- Replacement cost based on pay per click can indicate the value of time and effort replaced, but not necessarily the value of brand or TM
- The IP Asset may not be the most important asset for apportionment
- Don't fall for: using a 10% industry royalty the TM is worth more than the entire business
- Visits due to a TM-based search indicates number of visits, not necessarily profits

***The Data is available, but it may not always support the claims***

# What to Ask For

## Initial Questions & Information Requests

### *Still need the standard Company & Financial Information*

- Historical financial reports
- Business plans, budgets, forecasts
- Key managers, employees
- Sales & margin by product / service
- Industry & market information
- etc., etc.

### *The Internet & Social Media Request*

- List of all Domain names and websites, and description of e-commerce activities; for each domain name: registrar details and proof of ownership
- List of social media accounts and username and password login details
- Description of online and traditional promotional programs, including marketing and advertising campaigns
- Access to the company's website analytics software, e.g., Quantcast or Google Analytics
- Relevant analytic data related to website visits, time visitors remain on the site and number of page views per unique visitor, etc.
- Website platform details and any work-for-hire contracts
- Access to online marketing and/or Customer Relationship Management (CRM) databases

*Even getting the data may require some education of your client*



# Concluding Comments

## *Our Top Takeaways*

- The Internet and Social Media marketing world requires educating your audience before proceeding to the quantitative analysis;
- The Internet Marketing World is less understood, but offers many advantages for financial and economic analysis (there is defensible evidence if you know where to look, and how to explain it)
- Using the analytical advantages available from Internet & Social Media marketing allows compelling Valuation and Expert Analysis (*the proof is available*)
- Be aware of the limits of your calculations

***Internet and social media data analysis provides additional tools for the Art & Science of Valuation***

# Thank You

Doug Bania and Brian Buss

# Nevium

Nevium specializes in intellectual property valuations and expert testimony related to trademarks, copyrights, patents, brands, publicity rights and intangible assets. For IP litigators we provide expert damages testimony that combines our knowledge of Internet and social media analytic tools with accepted methodologies and concise narratives. For C-level Executives and In-House Counsel we provide IP valuation and portfolio strategies with a focus on connecting IP to financial performance and using IP to increase profits.

## **Our services include:**

Valuation: Valuation and financial analysis of patents, copyrights, trademarks, brands, intangible assets and business enterprises.

Damages Experts: Expert testimony and damages opinions for IP infringement, defamation, marketing, business interruption, publicity rights and civil litigation.

Strategic Advisors: Strategic services to leverage IP assets and connect IP to financial performance.

Infringement Investigation: Analysis of IP infringement on websites, social media, SEO and online advertising.

# Additional Reading

“Using Internet Analytic Tools for Valuation and Damages Calculations in Internet IP Infringement and Defamation Cases” published as a chapter in The Comprehensive Guide to Economic Damages book by Business Valuation Resources (BVR), 2018

“Profit Apportionment in Intellectual Property Infringement Damages Calculations” published as a chapter in The Comprehensive Guide to Economic Damages book by Business Valuation Resources (BVR), 2018

Purchase the two volume book The Comprehensive Guide to Economic Damages, Fifth Edition by Business Valuation Resources

“Can Trademark Infringement Be a Victimless Crime? The Stone Creek v. Omnia Case” International Journal of Law and Public Administration, Redfame Publishing Inc., 2018

“Brand Valuation: Valuing Brands that aren’t Exchanged” presented at Provisors, Brand Licensing and Intellectual Property Affinity Group, 2018

“Blurred Lines – Music Industry Damage Calculations” Panel Session presented at SXSW, Austin, TX, March 2017

“Brand Valuations: Identifying Opportunities and Challenges” published in The Value Examiner, Special Issue, September/October 2016

“Apportioning Copyright Damages: The Case of Blurred Lines” published in the Journal of Intellectual Property Law & Practice, Vol. 10, No. 12, 2015

“Estimating and Managing the Economic Impact of Brand Disparagement” published in the World Trademark Review, 2014

“Deceptive Product Endorsement: Unauthorized Use of a Celebrity’s Name and Likeness,” published in Total Licensing Magazine, 2006