



JOSHUA LYNN

EDUCATION B.B.A. in Finance and Economics, Baylor University
 Accounting Coursework, Lone Star College

PROFESSIONAL ORGANIZATIONS Association of Certified Fraud Examiners, Associate Member; Licensing Executives Society

- EXPERIENCE**
- Whitley Penn LLP
 - Managing Director (2018-Present)
 - Director (2017-2018)
 - OverMont Consulting LLC
 - Director (2015-2017)
 - Associate Director (2013-2014)
 - Senior Associate (2012)
 - Independent Contractor (2010-2011)
 - Charles River Associates
 - Associate (2008-2010)
 - Analyst (2007-2008)

Joshua Lynn is a Managing Director at Whitley Penn LLP. He has consulted with plaintiffs and defendants in a variety of litigation and commercial dispute matters involving patent infringement, trademark infringement/false advertising, copyright infringement, theft of trade secrets, breach of contract, construction defects, fraud, oil & gas royalties, forensic accounting, alter ego, wrongful termination, personal injury, conversion, shareholder, professional malpractice, and class action litigation. Mr. Lynn has performed and managed many complex financial, economic, and accounting analyses, including lost profits, lost wages, reasonable royalties, business valuation, intellectual property licensing, disgorgement/unjust enrichment, tracing, fraud investigation, regressions, cost of capital, and pre- and post-judgment interest. Mr. Lynn has been designated as an expert in state and federal court proceedings and arbitrations and has testified in depositions and trials.

- RANGE OF INDUSTRY EXPERIENCE (EXAMPLES)**
- Apparel
 - Asset tracking/geolocation
 - Automobiles and trucking
 - Computer hardware/software
 - Construction
 - Consumer products
 - Data analytics
 - Financial services
 - Internet advertising/services
 - Life insurance
 - Manufacturing
 - Medical devices/procedures
 - Mobile devices
 - Moving and storage
 - Multi-family properties
 - Oil & gas (upstream, midstream, and downstream)
 - Real estate investments
 - Restaurant
 - Retail energy marketing
 - Telecommunications hardware/services
 - Television hardware
 - Video game hardware

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 1400 West 7th Street
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BUSINESS EXPERIENCE

Patents

- Managed complex patent infringement litigation engagements in the telecommunications space involving major U.S. wireless service providers. Relevant technologies included: 3G service; LTE service; SMS/MMS messaging; voice codec; website interface; directory assistance call completion; and Wi-Fi security.
- Submitted expert report on damages in patent infringement litigation between a non-practicing entity and a company that provided asset and vehicle tracking services. Patents-in-suit related to geofencing and access control. Analyzed plaintiff's licensing history and opined on reasonable royalty damages.
- Submitted expert report on damages in patent infringement and unfair competition matter. Patented technology involved chiropractic devices. Scope of report included analysis and critique of plaintiff's claims of lost profits, reasonable royalties, and the defendant's profits resulting from alleged unfair competition. Gave deposition testimony on damages opinions.
- Managed litigation engagement involving patent infringement dispute between two security device companies. Analysis included preliminary calculations of reasonable royalty damages. Consulted during mediation between the parties.
- Provided research and analysis and assisted in the drafting of expert reports related to two patent infringement litigations involving a publicly-traded mobile device manufacturer; analysis included evaluation of reasonable royalties; relevant technologies were internal antennas and wireless LAN connectivity.
- Provided research and analysis related to patent infringement litigation involving a medical device manufacturer; relevant technology was safety syringes.
- Provided research and analysis related to patent infringement litigation between four medical device companies; relevant technology was gastrointestinal stents.
- Performed research and analysis related to patent infringement litigation involving two marine seismic system manufacturers; analysis included evaluation of lost profits and reasonable royalties; relevant technology was digital seismic sensors.
- Performed research and analysis and assisted in the drafting of an expert report in patent infringement litigation involving two oilfield tool manufacturers; analysis involved lost profits, price erosion, and reasonable royalties; relevant technology was well perforation systems.
- Performed research and analysis and assisted in the drafting of expert reports in patent infringement litigation involving a major U.S. telecommunications operator; relevant technology involved spectrum management with respect to DSL services.

- Provided analysis and assisted in the drafting of an expert report related to patent infringement litigation between two television manufacturers involving digital television technology; analysis related to a claim for reasonable royalties and rebuttal of a counterclaim of lost profits and reasonable royalties.
- Provided research and analysis related to patent infringement litigation involving numerous regional banks; analysis included evaluation of reasonable royalties; relevant technology was transaction authorization.
- Managed engagement and assisted in the drafting of an expert report in a patent infringement litigation involving a coalbed methane company; analysis involved determination of a reasonable royalty using the analytical approach, based on comparison of profitability from patented coalbed methane well technology versus that of prior art technology.
- Provided research and analysis and assisted in the drafting of an expert report in two patent infringement litigations involving a publicly-traded offshore drilling contractor; conducted analysis of the ultra-deepwater offshore drilling market; litigation involved a patent related to dual-activity drilling technology; conducted analysis of secondary consideration of commercial success with respect to the patents-in-suit.
- Managed patent infringement litigation engagements involving desktop multi-monitor stand technology. Analyzed the plaintiff's established reasonable royalty based on licensing history and assisted in drafting expert reports.
- Conducted preliminary analysis of reasonable royalty damages attributable to alleged infringement of a telemedicine patent.
- Consulted with patentee's counsel regarding secondary consideration of commercial success in an *Inter Partes* Review ("IPR") proceeding before the U.S. Patent and Trademark Office. Patent covered high specification in-ear monitor technology for the music/audio industry.
- Consulted on a patent infringement matter involving roofing material technology.

Trademarks

- Submitted an initial expert report that set forth the methodology for calculating damages in a trademark infringement matter. The disputed trademark was used in the home goods market.
- Provided research and analysis and assisted in the drafting of an expert report related to trademark infringement litigation between two U.S. moving and storage companies; analysis included calculation of the defendant's sales and profits subject to disgorgement.

- Conducted preliminary analysis of trademark damages in litigation involving a publicly-traded telecommunications company; dispute involved the alleged use of a trademark in connection with VPN hardware.
- Provided research and analysis and assisted in the drafting of an expert report related to trademark infringement litigation between a technology company and a travel-related software company.
- Provided research and analysis and assisted in the drafting of an expert report related to a claim of false advertising in an arbitration proceeding between two aftermarket automobile parts manufacturers.

Copyrights

- Managed litigation engagement involving copyright infringement dispute between two residential home builders. Analysis included disgorgement of defendant's profits.
- Manage litigation engagement involving copyright infringement dispute between a software company and two manufacturers of medical equipment; relevant copyrighted material was software that enabled the tracking of lead aprons. Analyzed plaintiff's damages analysis. Performed counterclaim damages analysis.
- Managed litigation engagement involving copyright infringement and trade secrets misappropriation litigation between a software company and a major credit information company; relevant copyrighted material was software related to a credit application decisioning platform. Analyses included disgorgement of defendant's profits and avoided costs.
- Managed a copyright infringement litigation engagement in a case involving oil & gas software providers. Analyzed the plaintiff's damages claim and assisted in drafting a rebuttal expert report on damages.

Trade Secrets

- Submitted expert report on damages in federal civil litigation between two adolescent residential treatment facilities in the State of Texas. Claims included misappropriation of trade secrets, copyright infringement, and breach of fiduciary duty. Calculated plaintiff's lost profits from alleged copyright infringement and misappropriation of trade secrets; performed valuation of trade secrets to the defendant and calculated reasonable royalty damages; and analyzed defendants' avoided costs from alleged trade secrets misappropriation and plaintiff's out-of-pocket costs resulting from alleged breach of fiduciary duty. Gave deposition testimony on damages opinions. The parties reached a significant settlement at mediation.

- Cosigned expert report in a trade secrets misappropriation case involving a tax consulting firm. Calculated the value of the trade secrets to the defendant at the time of misappropriation.
- Cosigned rebuttal expert report in a trade secrets misappropriation case involving oil & gas compressor services. Reviewed plaintiff's expert report and identified flaws in expert's avoided cost and lost profit methodologies.
- Managed litigation engagement involving dispute between two manufacturers of consumer coating products. Dispute included claims of trade secrets misappropriation, trademark infringement, and breach of contract. Analyses included lost profits, unjust enrichment, value of trade secrets to defendant, corrective advertising, and avoided costs. Assisted in drafting expert report.
- Analyzed a lost profits model prepared by an opposing party's damages expert in litigation involving alleged theft of trade secrets related to the manufacturing of cryogenic trailers.
- Performed preliminary research and analysis of damages with respect to trade secrets litigation between a technology development company and a major chemical company; relevant technology was related to the production of nanofiber materials.
- Prepared calculations of the value of a trade secret associated with natural gas processing technology and assisted in the drafting of an expert report with respect to litigation involving an oil & gas equipment company and an integrated oil & gas company.

Contractual Disputes

- Cosigned expert reports submitted in an arbitration proceeding between two upstream/midstream oil & gas companies; dispute involved breach of contract claims involving the allocation and accounting of proceeds from natural gas liquids produced by a cryogenic processing plant located in Tennessee.
- Cosigned expert report in an arbitration proceeding between a well operator and a working interest holder; analysis involved review of the well operator's accounting records and the terms of a purchase and sale agreement for oil & gas properties in North Dakota.
- Managed breach of contract litigation engagement involving commodity brokers. Reviewed opposing expert's lost profits analysis and identified flaws in methodology.
- Managed engagement and assisted in the drafting of an expert report regarding a claim for lost profits at an off-airport paid parking facility; analysis included estimation of occupancy rates of other off-airport parking facilities and identification of adjustments to the opposing expert's lost profits model.

- Cosigned expert report in litigation between a printing/mail service company and a retail energy service company involving the termination of a service contract; analyzed potentially foreseeable losses resulting from termination of the contract vis-à-vis a provision for liquidated damages in the contract.
- Consulted with a company regarding a drapery hardware manufacturer's lost profits claim involving alleged improper sales of excess and obsolete ("E&O") inventory.

Wrongful Termination

- Cosigned expert report on damages in breach of contract litigation between a former sales agent and a major retail energy marketing company; analysis included present-value calculation of potential future commissions from the agent's past sales of retail gas and electricity services.
- Designated as an expert in a breach of contract matter involving an oil & gas trucking terminal. Calculated lost profits through the principal's expected date of retirement. Provided deposition testimony.

Shareholder Disputes

- Managed breach of contract litigation engagement involving an alleged equity interest in convenience stores and associated enterprises. Analyzed the plaintiff's expert's valuation report and identified flaws in the expert's methodology.
- Performed research and analysis and assisted in the drafting of an expert report related to a dispute over claimed ownership in an oilfield services company; analysis included rebuttal to a valuation of the company.
- Performed research and analysis related to shareholder oppression litigation between a minority shareholder and a pilot training software company; analysis included preparing lost profit calculations related to the software company's counterclaim and analysis of a valuation of the software company.
- Performed research and analysis and assisted in the preparation of a written work product related to shareholder oppression/breach of fiduciary duty litigation between a minority shareholder and a heavy equipment company; analysis included a valuation of the company and calculation of profit distributions.
- Performed valuation of a specialty pharmacy in connection with a dispute between shareholders of the company.

Conversion

- Cosigned expert report that included analysis of damages resulting from the alleged conversion and/or theft of funds from a check cashing business; analysis included determination of the amount of funds allegedly converted and/or taken and rebuttal to a valuation of the check cashing business.

Professional Malpractice

- Performed research and analysis regarding a claim for lost profits that was made in a lawsuit between an asphalt company and an integrated oil & gas company; analysis involved reconstruction of a lost profits model related to a proposed asphalt refinery and calculation of adjustments to the model based on analysis of the facts of the case and the regional market for asphalt during the relevant time period.
- Analyzed economic damages in a legal malpractice arbitration proceeding involving alleged wrongful conduct that occurred in an underlying patent infringement lawsuit.

Fraud

- Performed damages analysis related to Medicare fraud litigation involving a publicly-traded healthcare service provider; analysis involved calculation of government reimbursements associated with excess medication provided to patients.
- Managed engagement in a civil fraud case associated with pipeline repair contractors and related entities; analysis included tracing bank transactions and identification of uses of funds generated from alleged fraudulent business activities. Conducted analysis of indicators of fraud.

Class Action/Mass Tort

- Submitted expert report on putative class damages in two separate class action proceedings over alleged violations of the Texas Property Code. Analyzed a property management company's late fee arrangements and late rent procedures to determine whether late fees constituted damages to the landlord. Provided deposition in both proceedings.
- Managed a litigation engagement involving rebuttal damages analysis for putative class members who elected to participate in Voluntary Employee Beneficiary Associations ("VEBAs") with tax-advantaged life insurance policies. Analysis included criticism of opposing expert's alternative-investment theory of damages and calculation of economic benefits received by putative class members from participating in VEBA programs.
- Performed research and analysis and assisted in the drafting of an expert report involving a potential class action lawsuit involving automobile sunroof drainage systems.

- Conducted research and analysis of the financial wherewithal of medical device companies to pay settlement fees with respect to mass tort product liability litigation.
- Calculated an attorney's proceeds due from a fee-sharing agreement associated with mass tort litigation.

Forensic Accounting

- Managed a forensic accounting engagement and assisted in the drafting of an expert report prepared at the request of a special master; analysis involved determining the recipients and/or uses of funds generated from the business operations of a roofing contractor.
- Conducted research and analysis and assisted in the drafting of an expert report related to a litigation involving an alleged breach of escrow agreements between certain oil & gas funds and a regional bank; analysis included identification of disbursements made from escrow accounts in violation of the terms of the escrow agreements.
- Retained as a consulting expert in litigation involving alleged breach of contract and breach of fiduciary duty. Conducted analysis of company expenses to identify company funds allegedly misappropriated by the defendant.

Other Financial/Valuation Analysis

- Performed valuation of secured and unsecured notes associated with used vehicles.
- Analyzed historical financial statements to determine financial relationships between various shell companies in the real estate market.

Recent Speeches

- Guest commentator and mock testimony on trade secret damages, University of Houston Law Center, April 11, 2019.
- "Overview of Trademark Damages," University of Houston Law Center, October 22, 2018.
- "Overview of Trade Secret Damages," Baker McKenzie, June 6, 2018.
- "Overview of Trade Secret Damages," Reed Smith LLP, May 2, 2018.
- Guest commentator and mock cross examination on trade secret damages, University of Houston Law Center, April 9, 2018.
- "Overview of Trade Secret Damages," Thompson & Knight LLP, April 2, 2018.
- "Overview of Trade Secret Damages," Ahmad, Zavitsanos, Anaipakos, Alavi & Mensing PC, March 20, 2018.
- "Overview of Trade Secret Damages and Copyright Statutory Damages," Norton Rose Fulbright US, LLP, February 21, 2018.

- “Valuation of Intellectual Property,” Andrews Kurth Kenyon LLP, November 29, 2017.
- “Overview of Trademark Damages,” University of Houston Law Center, October 31, 2017.
- “Calculating Economic Damages in Complex Commercial Litigation,” Jackson Walker LLP, August 17, 2017.
- “Trademark and Copyright Damages,” South Texas College of Law Houston, April 24, 2017.
- “Trade Secret Damages,” University of Houston Law Center, March 30, 2017.
- “Economic Damages in Trademark Litigation,” University of Houston Law Center, November 10, 2016.
- “Economic Damages in Trademark Litigation,” University of Houston Law Center, April 21, 2016.

Publication

- “Calculating the costs,” *Intellectual Property Magazine*, September 2017.