



# EXPERT TESTIMONY FEATURED ENGAGEMENTS

## 专家证人证言 经典案例



OCEAN TOMO®  
INTELLECTUAL CAPITAL EQUITY®

Ocean Tomo provides industry leading financial products and services related to intellectual property. Our comprehensive professional offering is built upon more than three decades of experience valuing intellectual property in the most rigorous of venues – State, Federal and international courts. Our financial, market and technical experts have a unique understanding of the contributory value of proprietary innovation. This is the cornerstone of our business. This insight permeates every practice and client engagement.

Ocean Tomo assists clients – corporations, law firms, governments and institutional investors – in realizing Intellectual Capital Equity® value broadly defined. Collectively,

Ocean Tomo professionals have:

- Completed over 1000 engagements involving IP worth in excess of \$10 billion including over 300 valuation and 500 financial damages expert testimony engagements;
- Successfully closed hundreds of IP sale transactions with a cumulative transaction value well in excess of \$750 million;
- Served as a trusted advisor involving the biggest IP transactions in history;
- Originated more successful IP monetization solutions than any other firm, including creation of the world's oldest and most successful live patent auction.

Our track record of results spans more than 100 different industry segments. Because our past success provides the best indication of our capabilities, we are proud to feature a few representative engagements and encourage potential clients to seek references from past clients.

Ocean Tomo 提供业内领先的知识产权金融产品与服务。我们的意见、管理和咨询服务均基于三十多年来在最严苛场所（州、联邦和国际法庭）所积累的知识产权估值专业经验。我们的金融、市场和技术专家们，可以为自主创新的分摊价值提供独到的见解。这是我们的业务基石所在，它贯穿于我们全部实践当中。

Ocean Tomo 协助客户（包括企业、律师事务所、政府和机构投资者）实现广义上的知识资本股权®价值。总体而言，Ocean Tomo 的专家已：

- 完成超过1000项知识产权业务，价值超过100亿美元，其中包括300多项知识产权评估与500多项损害赔偿专家证人证言业务；
- 成功达成数百项知识产权销售交易，累计交易金额超过7.5亿美元；
- 曾为史上最大交易金额的知识产权交易担任顾问；
- 创造出业内最成功的知识产权货币化解决方案，其中就包括成功创办全球史上第一个现场专利拍卖。

我们的业务覆盖100多个不同的行业领域。成功案例是我们最好的代言，很荣幸向您展示我们的经典案例，欢迎致询以往客户，聆听Ocean Tomo解决方案为他们带来的成功。





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#### EXPERT TESTIMONY

# CHINESE TELECOMMUNICATIONS COMPANY US LITIGATION CONSULTING

## Background

A Chinese telecommunications company involved in multiple litigations sought assistance in obtaining an in-depth understanding of the computation of patent infringement damages in U.S. courts.

## Engagement

Ocean Tomo was engaged by a Chinese telecommunications company to provide detailed information regarding the alternative approaches and associated nuances of determining patent infringement damages in U.S. courts to facilitate the company's strategy in dealing with litigation in various countries, including in China.

## Contact

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专家证人证言

# 中国电信企业在 美诉讼策略咨询

## 背景

一家中国电信企业身陷多起诉讼，寻求咨询意见，以深度了解美国法院对专利侵权损害赔偿的计算。

## 案情简介

Ocean Tomo受聘于中国一家大型电信企业，为其提供诉讼策略咨询。咨询内容涉及美国法庭判定专利侵权赔偿的不同方法及其细微差别，从而完善该公司在其他多个国家（包括中国在内）的诉讼策略。

## 联系人

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FEATURED ENGAGEMENTS

## EXPERT TESTIMONY

# IN THE MATTER OF CERTAIN PERSONAL TRANSPORTERS, COMPONENTS THEREOF, AND PACKAGING AND MANUALS THEREFOR

**United States International Trade Commission**  
**Investigation No. 337-TA-1007/1021**

## Engagement

Patent and Trademark Infringement Litigation

## Technology

Self-Balancing Electric Scooters

## Case Issues

Segway, Inc., manufacturer of the famous “Segway Personal Transporters,” created the self-balancing electric scooter market. Segway’s parent company, Ninebot (Tianjin) Technology Co., Ltd., is headquartered in China and is also a leading marketer, manufacturer and supplier of self-balancing electric scooters. The Respondents, which included several companies such as Razor and Swagway, were accused of importing infringing one-wheel and two-wheel self-balancing electric scooters (e.g. “hoverboards”) into the United States. Mr. Milani offered testimony on behalf of the Complainants. Mr. Milani’s testimony related to the existence of a domestic industry and the appropriate remedy and bond. Mr. Milani also testified regarding the statutory public interest factors and the commercial success of the patented and accused products. The Ocean Tomo team assisting Mr. Milani on the engagement included Chet Dominik and Christopher Huh.

## Results

Complainants won on its trademark infringement claims. Consistent with the opinions offered by Mr. Milani, The International Trade Commission found the existence of a domestic industry and granted cease and desist orders and limited exclusion orders against the guilty Respondents. The Commission also agreed with Mr. Milani that public interest concerns did not weigh against the issuance of the requested remedies.

## Contact

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专家证人证言

# 个人代步车工具及其组件、包装与手册

美国国际贸易委员会

案件编号337-TA-1007/1021

## 案例类型

专利与商标侵权诉讼

## 技术

电动平衡车

## 案情简介

赛格威公司——著名的“赛格威个人代步车”的制造商，开创了电动自动平衡车市场。赛格威的母公司——纳恩博（天津）科技有限公司，总部位于中国，也是自动平衡电动车行业领先的制造商、营销商与供应商。被申请人包括Razor与Swagway等数家公司。被申请人涉嫌侵权在美销售一轮与两轮的自动平衡电动车（例如“悬浮滑板”）。Milani先生代表申诉企业赛格威提供专家证言。Milani先生的证词涉及国内产业要件，合理的救济与担保金。Milani先生同时就公共利益要件、被侵权商品的商业成功发表了专家意见。Ocean Tomo协助Milani先生的其他成员包括Chet Dominik与Christopher Huh。

## 案例结果

申请人就该商标侵权案索赔获胜。根据Milani先生提供的专家意见，国际贸易委员会裁定涉案产品对美国国内产业构成损害，颁布制止令要求停止销售侵权产品，针对被申请人发布有限排除令。贸委会还同意Milani先生公共利益并未影响所要求的补救措施。

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#### EXPERT TESTIMONY

# MILWAUKEE ELECTRIC TOOL CORP., ET AL V. SNAP-ON INC.

United States District Court for the Eastern District of Wisconsin  
Case No. 2:14-cv-01296

## Engagement

Patent Infringement Litigation

## Technology

Lithium-Ion Batteries in Cordless Power Tools

## Case Issues

Milwaukee Tool, a Wisconsin based power-tool company, is a major innovator in the cordless power tool industry. In 2005, Milwaukee Tool introduced the V28™ line of lithium-ion powered tools, the world's first high-current cordless handheld power tools powered by lithium-based battery packs. The V28™ provided the power of corded tools while being light and compact enough for cordless use. Milwaukee Tool's parent company, Tooltechnic Industries Co. Ltd., is headquartered in China and is a leading marketer, manufacturer and supplier of power tools and home improvement products. Defendant, Snap-on, Inc., like many toolmakers, introduced lithium-ion battery packs in its tools after Milwaukee Tool's launch of the V28™.

Plaintiffs alleged that Snap-on, Inc.'s use of the technology described in three of Milwaukee Tool's patents constituted infringement. Mr. Malackowski testified on behalf of the plaintiffs on the matter of financial damages resulting from the alleged patent infringement. The Ocean Tomo team assisting Mr. Malackowski on the engagement included Rich Lettiere and Chelsea Nacker.

## Results

Plaintiffs won on patent validity, infringement and willfulness. The jury awarded damages of \$27.8 million, matching Mr. Malackowski's opinion.

## Contact

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专家证人证言

# 密尔沃基电动工具股份有限公司等诉实耐宝公司

美国威斯康星州东区地区法院

案件编号 2:14-cv-01296

## 案例类型

专利侵权诉讼

## 技术

无绳电动工具中的锂离子电池

## 案情简介

密尔沃基工具公司，是一家位于美国密尔沃基市的电动工具公司，它是无绳电动工具行业的重要创新机构。2005年，密尔沃基工具公司推出了V28™系列锂离子电动工具，这是世界上首款采用锂电池组充电的高电流手持式无绳电动工具。V28™系列不仅能提供像有绳工具一样的动力，而且足够轻巧，方便使用。密尔沃基工具公司的母公司是创科实业有限公司。该公司总部位于中国，是行业内领先的电动工具、家装产品的营销商、制造商和供应商。在密尔沃基工具公司推出V28™系列之后，被告实耐宝公司像很多工具制造商一样，也在自家工具中引入锂电电子电池组。

原告密尔沃基工具公司称被告实耐宝公司盗用原告的两项专利技术，构成专利侵权。Ocean Tomo的Malackowski先生代表原告，为专利侵权损害赔偿提供专家证言。其他参与作证的Ocean Tomo专家有Rich Lettiere 和Chelsea Nacker。

## 案例结果

在专利无效诉讼与专利侵权诉讼中，原告获胜。法庭判决被告赔偿原告2780万美元，恰符合Malackowski先生在专家证言中建议的损害赔偿金额。

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## EXPERT TESTIMONY

# LOTES CO., LTD. V. HON HAI PRECISION INDUSTRY CO., LTD., AND FOXCONN ELECTRONICS, INC.

**United States District Court for the Northern District of California – San Jose Division  
Case No. 3:11-Cv-01036-WHA**

## Engagement

Deposition Testimony

## Technology

CPU sockets and accompanying accessories, memory sockets

## Case Issues

Hon Hai, also known by its trade name Foxconn, is the world's largest contract electronics manufacturer and specializes in the manufacture and sale of computer, component, and consumer electronic products. Lotes is an electronics manufacturer that specializes in connectors, thermal modules, antenna tuners, and other peripherals for electronic devices.

In 2006 the parties entered into an agreement to resolve a number of disputes. As part of the agreement, Hon Hai and Foxconn granted Lotes a license to certain U.S. and foreign patents, while Lotes agreed to pay royalties on certain CPU and memory socket connectors.

In 2010 Hon Hai and Foxconn engaged an outside firm to conduct a royalty audit in relation to the license agreement. The audit revealed a royalty underpayment of several million New Taiwan Dollars and a dispute arose between the parties regarding the scope of the license.

In the current action, Lotes filed suit against Hon Hai and Foxconn seeking declaratory judgement of non-infringement regarding certain Hon Hai patents, in addition to declaratory judgement regarding the scope of the license agreement and breach of contract. Hon Hai and Foxconn responded with counterclaims for patent infringement and breach of contract.

## Results

Ocean Tomo, on behalf of Hon Hai and Foxconn, calculated three measures of damages caused by Lotes: reasonable royalty damages for patent infringement, unpaid royalty damages under the license agreement, and breach of contract damages incurred defending against patent validity challenges initiated by Lotes. In addition, Ocean Tomo rebutted damages opinions put forth by Lotes' damages expert.

## Contact

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# 嘉泽端子诉鸿海科技及富士康

美国北加州地方法院圣何塞分庭案件号:

3:11-CV-01036-WHA

## 案例类型

庭外作证

## 技术

CPU插座及其配件、内存插槽

## 案情简介

鸿海集团（在中国大陆地区被称为富士康），是全球最大的电子产品合同制造商，专门从事计算机、通讯元件、消费性电子产品的制造与销售。嘉泽是一家电子产品制造商，专门设计与制造连接器、散热模块、天线调谐器、及其他电子产品的周边设备。

2006年，原、被告双方达成和解协议，以解决若干争议。作为协议的一部分，鸿海及富士康许可嘉泽使用某些特定美国专利和海外专利。嘉泽端子则愿意为某些CPU和内存插槽连接器支付专利许可使用费。

2010年，鸿海和富士康聘请第三方公司，对许可协议中规定的专利许可使用费进行审计。审计后发现，嘉泽支付的许可费少了数百万新台币。于是，围绕专利许可范围，新的争端又起。

在近期诉讼中，嘉泽以鸿海和富士康为被告针对鸿海的特定专利提起确认不侵权之诉、许可协议范围确认之诉以及违约之诉。鸿海和富士康就专利侵权和违约提起反诉。

## 案例结果

Ocean Tomo 代表鸿海和富士康，以三种方式计算由嘉泽引起的损害赔偿：基于专利侵权的合理许可费用损失；基于许可协议下的未支付费用损失；应对嘉泽提起无效程序所造成的损失。除此之外，Ocean Tomo的专家充分反驳了嘉泽方面损害赔偿专家的损害赔偿意见。

## 联系人

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#### EXPERT TESTIMONY

## CP KELCO, U.S., INC. V. CHIENKUO YUAN ET AL.

Superior Court of the State of California, County of San Diego  
Case No. 37-2015-00022453-CU-BT-CTL

### Engagement

Trade Secrets Misappropriation

### Technology

Gellan Gums (Food Additives)

### Case Issues

The Plaintiff is a major innovator and producer of hydrocolloids for use in food & beverage and personal care products. In particular, the Plaintiff's product Gellan Gum is used in many beverages and produced through a complex bioindustrial fermentation process using highly controlled conditions, including proprietary and valuable materials and technology that are protected as trade secrets. The Defendant was previously employed for 14 years by the Plaintiff as a food applications scientist, focused on beverages. Plaintiff alleges that the defendant downloaded files containing confidential and proprietary process information, including raw material specifications containing step-by-step instructions to make a range of proprietary formulations of Gellan Gum, Xanthan Gum, and Rhamsan Gum; and documents related to marketing and sales strategies. Mr. Lewis testified on behalf of the defendant on a matter related to financial damages resulting from the alleged misappropriations of trade secrets.

### Results

Although the defendant lost on liability and was subject to pay damages related to unjust enrichment, the jury only awarded damages matching Mr. Lewis' opinion which was less than 3% of the opposing expert's position.

### Contact

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专家证人证言

# CP KELCO, U.S., INC.诉袁建国及其他

加州洛杉矶郡高等

法院案件号码：37-2015-00022453-CU-BT-CTL

## 案例类型

商业秘密侵权

## 技术

结冷胶（食品添加剂）

## 案情简介

原告为食物、饮品以及护理用品中所使用胶体的主要发明者和生产商。原告生产的结冷胶被用于多种饮品。其生产要经过复杂的生物发酵过程，过程中生产条件需要严格控制，例如某些原材料专有且珍贵，再比如其中一些技术手段也被当做商业秘密保护起来。

被告人袁某作为食品应用学家供职于原告企业达14年，专攻饮品方向。原告称，被告人下载的文件包含机密或专有生产工艺，包含原材料规格，例如结冷胶、黄原胶、二氯酚胶等一系列专有配方的详细生产步骤；以及与市场、销售策略相关的文件。Ocean Tomo的Justin•Lewis先生代表被告就商业秘密侵权的财务损失提供专家证言。

## 案例结果

虽然被告被判具有侵权责任，并承担不当得利的赔偿，但由于法官采纳了Lewis先生提出的损害赔偿意见，最终被告赔偿的金额不到原告专家提议的3%。

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## OCEAN TOMO公司简介

Ocean Tomo, **the Intellectual Capital Merchant Bank® firm**, provides financial services related to intellectual property and intangible assets including financial expert testimony, valuation, strategy consulting, patent analytics, investment advisory, innovation management consulting and transaction brokerage.

Ocean Tomo是一家智力资本商业银行™，提供知识产权、无形资产相关的金融服务，包括财务专家证言、估值、战略咨询、专利分析、投资顾问、创新管理咨询和交易经纪业务。

Our Opinion, Management, and Advisory Services are built upon more than three decades of experience valuing intellectual property in the most rigorous of venues – State, Federal and international courts. Our financial, market and technical experts provide a unique understanding of the contributory value of proprietary innovation. This is the cornerstone of our business. This insight permeates every practice and client engagement.

我们的意见、管理和咨询服务均基于三十多年来在最严苛场所（州、联邦和国际法庭）所积累的知识产权估值专业经验。我们的金融、市场和技术专家们，可以为自主创新的分摊价值提供独到的见解。这是我们的业务基石所在，它贯穿于我们全部实践中。

Collectively, Ocean Tomo professionals have:

总体而言，Ocean Tomo 的专业团队已：

- Completed over 1000 engagements involving IP worth in excess of \$10 billion including over 300 valuation and 500 financial damages expert testimony engagements;
- 完成超过1000项知识产权业务，价值超过100亿美元，其中包括300多项知识产权评估与500多项损害赔偿专家证人证言业务；
- Successfully closed hundreds of IP sale transactions with a cumulative transaction value well in excess of \$750 million;
- 成功达成数百项知识产权销售交易，累计交易金额超过7.5亿美元；
- Served as a trusted advisor involving the biggest IP transaction in history;
- 曾为史上最大交易金额的知识产权交易担任顾问；
- Originated more successful IP monetization solutions than any other firm, including the creation of the world's oldest and most successful live patent auction.
- 创造出业内最成功的知识产权货币化解决方案，其中就包括成功创办全球史上第一个现场专利拍卖。

Our track record of results spans more than 100 different industry segments. Because our past success provides the best indication of our capabilities, we are proud to feature a few representative engagements and encourage potential clients to seek references from past clients.

我们的业务覆盖100多个不同的行业领域。成功案例是我们最好的代言，很荣幸向您展示我们的经典案例，欢迎致询以往客户，聆听Ocean Tomo解决方案为他们带来的成功。

Subsidiaries of Ocean Tomo include: Ocean Tomo Investment Group, LLC, a licensed broker-dealer under Federal and State securities law (brokercheck.finra.org Broker Check CRD #: 172912); Ocean Tomo International (HK), Ltd.

Ocean Tomo旗下子公司包括：依联邦与州证券法设立的特许经营交易商Ocean Tomo Investment Group, LLC (brokercheck.finra.org Broker Check CRD #: 172912); Ocean Tomo国际（香港）有限公司



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