



Carol Ludington, CPA, CFF, CLP, ACI Arb



Carol Ludington possesses over thirty years of varied experience as a damage expert in U.S. domestic litigation, U.S. arbitration and international arbitration; as an arbitrator; and as a consultant in hundreds of matters involving a wide variety of industries and parties ranging from Fortune 500 companies to small companies and individuals.

Experience

Testifying Expert

Retained as a testifying expert regarding damages, financial, and business issues in hundreds of complex commercial and intellectual property disputes. Analyzed financial, business, and marketing information, assisted discovery, prepared written reports, and testified in numerous depositions and trials in Courts throughout the United States.

Consultant

Frequently retained as a consulting expert prior to and during litigation to perform initial damages assessments, identify issues, assist discovery, provide input regarding litigation strategy, and assist development of settlement positions.

Alternative Dispute Resolution

Involved in arbitration and alternative dispute resolution over the past thirty years as an arbitrator, neutral, expert witness in international and U.S. arbitrations, and as a consultant.

Licensing

Frequently addresses licensing considerations, including royalties, licensing terms, and other intellectual property transfer considerations in litigation and non-litigation situations.

Certifications and Professional Affiliations

Certified Public Accountant

Certified in Financial Forensics – American Institute of CPAs

Certified Licensing Professional – CLP Board of Governors

AAA Roster of Neutrals, American Arbitration Association

Qualified neutral under Rule 114 of the Minnesota General Rules of Practice

Vienna International Arbitral Center (VIAC) – List of Practitioners in International Arbitration

Vienna International Arbitral Center (VIAC) – List of Practitioners in International Mediation and ADR

Past Arbitrator, NASD

Associate, Chartered Institute of Arbitrators

Congress of Fellows – Center for International Legal Studies

LCIA North American Users' Council

Participated in working sessions of the United Nations Commission on International Trade Law (UNCITRAL) Working Groups II and III on behalf of the Forum for International Conciliation and Arbitration (FICA), an UNCITRAL Observer NGO.

Member, Sedona Conference Patent Damages and Remedies Working Group 9, Patent Litigation Best Practices Working Group 10, and Trade Secrets Working Group 12

Licensing Executives Society

AICPA Conference on Fraud and Litigation Services Steering Committee – Past Member

AICPA Economic Damages Advisory Committee to the Litigation and Dispute Resolution Services Task Force – Past Member

Minnesota Society of Certified Public Accountants Ethics Committee – Past Chairperson and Member

Minnesota Society of Certified Public Accountants Committee for Cooperation with Lawyers – Past Vice Chairperson

American Institute of Certified Public Accountants

Minnesota Society of Certified Public Accountants

American Bar Association

American Bar Association Women in Dispute Resolution – Past Chair of Regional Initiative

AIPLA – Patent Litigation Damages Subcommittee

Minnesota State Bar Association ADR Section

Arbitral Women

cludington@ludingtonltd.com

Ludington Ltd.
P.O. Box 760
Willernie, MN 55090

D +1.612.581.2880

Intellectual Property Experience

Extensive experience in the evaluation of patent, copyright, trademark infringement and trade secret misappropriation damages in hundreds of matters.

Frequently consults regarding intellectual property management and licensing issues, evaluates intellectual property value, performs market analysis and addresses intellectual property transfer considerations in litigation and non-litigation settings. Often addresses entire market value, apportionment, basis for demand, available alternatives and design-arounds.

Patents

Consulted regarding intellectual property transfer considerations, including intellectual property transfer options, market conditions and value of intellectual property.

Analyzed patent infringement damages based on lost profits and reasonable royalty approaches related to a wide range of technology. Industries include computer hardware, software, medical devices and products, agricultural products, consumer and industrial products.

Trademarks and Trade Dress

Analyzed damages related to trademark and trade dress infringement matters, including a variety of damage measures.

Trade Secrets

Analyzed damages related to misappropriation of trade secrets related to numerous industries. Damages considered included lost profits, unjust enrichment and others.

Consulting

Consulted in numerous matters related to intellectual property transfer and licensing, including consideration of transfer and licensing options, economics and royalties.

Performed initial damages assessments, researched industry licensing practices, and provided input regarding licensing, agreements and settlement.

Commercial Litigation Experience

Evaluated financial and business matters, including damages, in complex commercial disputes, including breach of contract, business torts, product liability, investment/securities, employment, dealership, franchise, and other matters. Damage measures considered have included lost profits, diminution of value, lost earnings, unjust enrichment, out-of-pocket and others related to a wide variety of industries.

Breach of Contract

Evaluated damages in breach of contract matters based on an understanding of the contract and the impact of the alleged breach on the parties, including consideration of lost profits, out-of-pocket expenses and contractual damages.

Investment/Securities

Analyzed portfolio performance, investment objectives and alternatives. Calculated losses resulting from claimed issues.

Dealership and Franchise Disputes

Determined damages from alleged breach of distribution and franchise agreements.

Employment

Analyzed damages from loss of individual earnings in connection with wrongful termination, employment and personal injury/wrongful death claims. Also, analyzed damages from employees' breach of employment agreements. Calculated losses resulting from claimed issues.

Product Liability

Analyzed alleged damages related to product liability claims, including lost profits, out-of-pocket expenses, price erosion and other claims.

Representative Initial Damages Assessment Experience

Frequently performs initial damages analysis related to pre-suit due diligence and during litigation to facilitate early dispute resolution, to narrow the gap between parties' expectations regarding realistic damages magnitudes, to focus discovery and case preparation, and to reduce overall dispute costs.

Pre-litigation due diligence

Performed initial damages assessment prior to litigation to identify potential magnitudes and issues. In some instances this resulted in resolution of disputes before suit being filed.

Facilitate settlement

Initial damages assessment performed to provide information to facilitate settlement by identifying damages magnitudes and issues, and to articulate potential settlement options.

Discovery streamlining

In instances when litigation did proceed, the initial damages assessment facilitated focused and streamlined discovery, resulting in cost savings and efficiencies.

Representative ADR Experience and Affiliations

Experienced in U.S. and international arbitration. Experience includes serving as an arbitrator and as an expert.

Neutral

Past arbitrator for American Arbitration Association (AAA) and National Association of Securities Dealers (NASD) arbitrations. Served as a sole arbitrator and as a member of three member panels.

Previously presented arbitrator training for the AAA.

Currently on AAA Commercial Roster of Neutrals.

Qualified neutral under Rule 114 of the Minnesota General Rules of Practice.

Vienna International Arbitral Center (VIAC) – Lists of practitioners in international arbitration, mediation and ADR.

Arbitrator for international arbitration moot competitions, including the Willem C. Vis International Commercial Arbitration Moot in Vienna, Austria and the Foreign Direct Investment International Arbitration (FDI) Moot. Judged written memorandums, preliminary oral hearings and elimination round oral hearings. Final round arbitrator for the 2015 FDI Moot written memorandum on damages and 2017 FDI Moot global finals.

Advisor to Special Litigation Committee

Expert

Expert witness in international arbitration. Prepared witness statements and testified at hearing.

Expert witness in U.S. arbitrations, including preparation of reports and hearing testimony.

Hot-tubbing

Participated in concurrent evidence (“hot-tubbing”) in international arbitration.

Other Experience

Assisted clients in a variety of consulting matters, including intellectual property transfer, financial feasibility studies, financial forecasts and projections, valuations and financings. Engagements involved health care, real estate, retail and other industries.

Education

Mankato State University (now Minnesota State University at Mankato) BS, Magna Cum Laude, Accounting and Business Administration

Employment

Ludington Ltd. (previously Cobb, Ludington & Associates, Ltd.) 1987 to present

Churchill Advisors, Inc., 1985-1987

Peat, Marwick, Mitchell & Co. (now KPMG Peat Marwick) Management Consulting Department, 1983-1985

Coopers & Lybrand (now PWC) Audit Department, 1979-1983

Seminars & Teaching

Presented U.S. and international programs on a variety of litigation and other topics. Representative presentations include the following:

"The ABC's of \$ in Litigation: Accounting and Economics for Judges," Minnesota Fourth District Bench Retreat, Minneapolis, MN 2019

"AIPLA Patent Damages Case Law-2018 Year in Review," 2019

"(Non?)-Traditional Neutrals," Center for International Legal Studies International Arbitration Symposium, Salzburg, Austria, 2018

"Traditional Ways Revisited – lessons learned from the past," Vienna Arbitration Days 2018, Vienna, Austria, 2018

"Ethics Panel," Center for International Legal Studies International Mediation Symposium, Salzburg, Austria, 2017

"Strange Bedfellows: Achieving Dispute Resolution Success with Hybrid Techniques and Neutral Experts," ABA Section of Dispute Resolution 19th Annual Spring Conference, San Francisco, CA, 2017

"Cybersecurity Panel," Panel presentation for the Hon. Jimmy V. Reyna IP Inn of Court, Minneapolis, MN, 2017

"Eat the Frog First – Use Damages Effectively," Minnesota CLE, Minneapolis, MN, 2017

"What US Dispute Resolution Specialists Can Learn From International Arbitration," MSBA Section of ADR, Minneapolis, MN, 2017

"Whether Damages-Focused Hearings Can Be Used Relatively Early in the Case to Focus the Litigation," The Sedona Conference WG9 and WG10 Joint Annual Meeting, Houston, Texas, 2017

"Not All Things That Count Can Be Counted," AIPLA 2016 Annual Meeting, Washington, DC, 2016

"Eat the Frog First," Expert Witness Institute, London, England, 2016

"When a Bank Book Makes Good Reading – Financial Issues in Civil Litigation", MDJA-MDJF Annual Meeting & MDJF Fall Educational Conference, Brainerd, MN, 2016

"Ethics Panel", Center for International Legal Studies International Arbitration Symposium, Salzburg, Austria, 2016

"Use of Damage Experts," and Panel Discussion, University of Minnesota Law School Patent Symposium, Minneapolis, MN, 2016

"Eat the Frog First: Using Damages As An Effective Tool," ABA Dispute Resolution Conference, New York, NY, 2016

Business Law Series: "Eight Ways to Make the Most of Arbitration," Minnesota CLE, Minneapolis, MN, 2016

"Patent Mediation – a continuing process to define and simplify the issues for helping resolve the dispute," The Sedona Conference, WG9 and WG10 Joint Mid-year Meeting, Pasadena, CA, 2016

"Peeves, Process and Presentation of Damages," Patent Damages Roundtable, Panel Moderator, University of Texas School of Law, Austin, TX, 2015

"Eat the Frog First: Address Damages Early," WIDR Committee of the ABA, 2015

"Financial Issues in the Courtroom – Damages, Valuations, Financial Statements and More – Traps and Tips for Judges," Managing the Challenging Civil Case, MJB Judicial Education, the Minnesota District Judges Foundation and Hamline University School of Law, St. Paul, MN, 2015

"Ten Ways Corporate Counsel Can Make the Most of Arbitration," Minneapolis, MN, 2015

"International Panel," Expert Witness Institute, London, England, 2014

"Improving the Process – Track B and Beyond," Patent Damages Roundtable, University of Texas School of Law, Austin, TX, 2014

Seminars & Teaching, con't.

"Damages in International Arbitration," Willem C. Vis International Commercial Arbitration Moot, Austria, 2014

"Refocusing the Damages Analysis in Patent Suits: New Techniques & ADR Options for Litigants & Damages Experts," American Bar Association Section of Intellectual Property 29th Annual Intellectual Property Law Conference, Arlington, VA, 2014

"Patent Litigation – One Size Does Not Fit All," American Bar Association Intellectual Property Committee, Dispute Resolution Section, Forum Call, 2014

"Patent Damages. . .or Not," Minnesota Intellectual Property Law Association, Minneapolis, MN, 2013

"IP Damages Update," Licensing Executives Society Twin Cities Chapter, Minneapolis, MN, 2011

"IP Damages Institute," CalCPA Education Foundation, Los Angeles, CA, 2010

"Ethics: Will You Know It When You See It?" AICPA National Forensic Accounting Conference, Boston, MA, 2010

"Expert Depositions," Minnesota CLE, Minneapolis, MN, 2007, 2009 and 2010

"Intellectual Property Damages," AICPA National Conference of Fraud and Litigation Services, San Diego, CA, 2007

Publications

"*Experts: Early, Tailored and Effective*," Austrian Yearbook on International Arbitration, 2019

"*Initial Damages Assessments: Focusing Early on Things that Count but Cannot be Counted*," ADR Advocacy, Strategies, and Practices For Intellectual Property and Technology Cases, Second Edition, American Bar Association, 2017

"*The Sedona Conference Commentary on Case Management of Patent Damages and Remedies Issues: Section on Patent Damages Hearings*," (Contributing Editor), The Sedona Conference, May 2017, Public Comment Version

"*Med-Arb: If the Parties Agree*", Yearbook on International Arbitration and ADR, Volume V, Spring 2017

"*The Sedona Conference Commentary on Patent Litigation Best Practices: Patent Mediation Chapter*" (Contributing Editor) The Sedona Conference, April 2017

"*Med-Arb: If the Parties Agree*", TDM 1 (2017), January 2017

"*Eat the Frog First: Address Damages Early*," Dispute Resolution Section of the New York State Bar Association, Fall 2015

"*Refocusing the Damages Analysis in Patent Suits: New Techniques & ADR Options For Litigants & Damage Experts*," American Bar Association Section of Intellectual Property Law 29th Annual Intellectual Property Law Conference, Spring, 2014

"*If We Ignore It Maybe It Will Go Away*," ABA Section of Dispute Resolution, Just Resolutions e-News, Spring 2014

"*Patent Litigation – One Size Does Not Fit All*," ABA Section of Dispute Resolution, Just Resolutions e-News, May 2013