

ANDREW T. CLARKE
Vice President

Phone: 202 530 3994
Fax: 202 530 0436
andrew.clarke@analysisgroup.com

800 17th Street, NW
Suite 400
Washington, DC 20006

Mr. Clarke specializes in applying economic and financial theory to a range of complex business disputes, in both litigation and non-litigation contexts. His experience spans numerous practice areas, including intellectual property (IP), commercial disputes, finance, and antitrust. Mr. Clarke has expertise in reasonable royalty and lost profits calculation, damages estimation, and asset and business valuation. His other engagements include commercial success and bond inquiries, solvency and fraudulent conveyance analyses, class certification, analyses of economic substance related to tax shelters, analyses of market timing and option backdating, and merger analyses. Mr. Clarke's non-litigation consulting has focused on the evaluation of potential acquisitions and the modeling of economic damages related to environmental disasters. Recently, his case work has included assessing damages related to patent infringement; determining the fair market value of businesses; and analyzing domestic industry, remedy, and public interest issues at the International Trade Commission (ITC). Mr. Clarke has provided support for clients and testifying experts at all stages of the litigation process, from pre-litigation consulting and discovery to trial and post-trial appeals. He has published and presented on topics related to standard essential patents, IP damages, and the ITC. Prior to joining Analysis Group, Mr. Clarke was an economic consultant in Washington, DC. He has earned the right to use the Chartered Financial Analyst designation.

EDUCATION

2010 M.B.A., finance and law & business, NYU Stern School of Business
2000 B.A., economics, Swarthmore College

PROFESSIONAL EXPERIENCE

2015–Present Analysis Group, Inc.
 Vice President (2019–Present)
 Manager (2015–2018)

2009–2015 ARPC, Inc.
 Director

2005–2009 The CapAnalysis Group, LLC
 Economist

2004–2005 Microeconomic Consulting & Research Associates, Inc.
 Economist

2000–2004 Glassman-Oliver Economic Consultants, Inc.
 Senior Analyst (2002–2004)
 Analyst (2000–2002)

SELECTED CONSULTING EXPERIENCE

Intellectual Property

- Calculated patent infringement damages related to anti-cholesterol biologic pharmaceuticals.
- Critiqued a plaintiff's patent damages calculations pertaining to the value of a fitness technology for mobile devices.
- Analyzed domestic industry, commercial success, remedy, and bond for a road milling machine manufacturer before the ITC.
- Calculated patent infringement damages associated with a non-practicing entity's suit against a mobile device manufacturer.
- Analyzed public interest issues related to potential remedies at the ITC for a major semiconductor designer.
- Determined the necessity of a permanent injunction for a utility company alleging patent infringement.
- Critiqued a complainant's assertions regarding domestic industry investments before the ITC.
- Calculated patent infringement damages associated with a non-practicing entity's suit against multiple mobile device manufacturers.
- Determined domestic industry investments made by a leading mobile phone manufacturer as a complainant at the ITC.
- Calculated domestic industry investments related to licensing activities of a complainant (a non-practicing entity) before the ITC.
- Calculated damages from the infringement of a patent related to plastic consumer packaging in the Eastern District of Virginia.
- Analyzed *EPROMS* factors related to a limited exclusion order extending to downstream products in a matter before the ITC.
- Calculated lost profits damages from the theft of trade secrets by a former employee in the electrical equipment distribution industry.
- Assisted in analysis of damages from trade dress claims in a dispute between lawnmower manufacturers.
- Calculated damages associated with the infringement of a patent covering composite decking material.

Commercial Disputes

- Evaluated incentives and performance by parent company in accordance with the earn-out provisions of an acquisition agreement and critiqued plaintiffs' damages analysis.
- Developed an econometric model capable of supporting class-wide damages theory for a consumer fraud class action brought against an institution of higher education.
- Assisted in the valuation of multiple skilled nursing facilities for evidence of inadequate consideration paid in a fraudulent conveyance suit.

- Calculated damages stemming from breach of contract between a multinational restaurant franchisor and its Turkish franchisee, and critiqued opposing damages model.
- Critiqued a plaintiff's damages model and assisted in opposing expert's deposition in a breach of contract suit between a local joint venture partner and a multinational cement manufacturer.
- Performed valuation of a start-up company in conjunction with binding arbitration regarding a breach of contract between joint venture partners in the food packaging industry.
- Assessed the solvency of a food service distributor at multiple points leading up to its bankruptcy.
- Valued a consumer herbicide product in conjunction with a breach of contract over marketing agreements.

Antitrust & Competition

- Analyzed a pharmaceutical company's promotional spending and practices for use in an investigation before the Korean Fair Trade Commission.
- Analyzed pricing and contracting within the tank container industry for evidence of collusive behavior.
- Assisted in response to the European Commission regarding competition concerns relating to the acquisition of a mapping software company by a mobile device manufacturer.
- Performed analyses of discounting behavior in several geographic markets for a beer manufacturer in support of its acquisition by a foreign beverage company.
- Counseled a private equity firm regarding antitrust issues in its potential acquisition of a sports equipment manufacturer.
- Calculated damages associated with the alleged violation of a consent order agreed to between the Federal Trade Commission (FTC) and a medical device manufacturer.
- Led case team in defending a Europe-based conglomerate from a breach of contract claim arising from alleged collusive behavior in the sulfuric acid industry.
- Assisted in the analysis of antitrust concerns related to an announced acquisition in the consumer packaging industry.
- Evaluated potential antitrust risks associated with a trade association's collection and publication of pooled member data.
- Compiled data responsive to a second request issued by the FTC in its evaluation of the acquisition of one major packaged food company by another.

Finance, Securities, Financial Products & Institutions

- Calculated the value of a high-end furniture retailer in Delaware Chancery litigation.
- Analyzed fair market value in the acquisition of a multinational automotive software company at Delaware Chancery.
- Valued a series of complex derivatives as part of an evaluation of economic substance in alleged tax shelters on behalf of a Big Four accounting firm.

- Analyzed the transfer and valuation of securities between entities related to one major financial institution's acquisition of another in 2008.
- Calculated damages and stock price inflation due to multiple disclosures by a multinational pharmaceutical company's management.
- Analyzed the stock option pricing policies of multiple technology firms for evidence of backdating.
- Examined an investor's behavior and incentives in tax shelter litigation against a Big Four accounting firm.
- Assisted in the analysis of trading patterns in support of a mutual fund market timing investigation by the US Securities and Exchange Commission.
- Evaluated evidence of market inefficiencies in the trading of a mining company's share price in the class certification stage of a suit alleging Rule 10b-5 violations.
- Performed an event study examining the effect of an auditor's resignation on a publicly traded silver mining company's share price in conjunction with a failed attempt to raise capital.
- Calculated damages and stock price inflation related to financial reporting fraud by the management of a pharmaceutical distributor.

PUBLICATIONS

"Jury Bias and Big Numbers in the Patent Litigation Context," *Law360* (February 2015)

"Is Intellectual Property Amenable to Securitization?" with Ilan Guedj, *Law360* (May 2014)

"What Old ITC Cases Tell Us About Pilot Program's Potential," *Law360* (December 2013)

"Will Standard-Essential Patent Holders Be Shut Out of the ITC?" *Law360* (September 2013)

"Where Have All The ITC Investigations Gone?" *Law360* (January 2013)

"The Whole Is Not Always The Sum Of Its Parts," with Donald L. Martin, *Law360* (June 2012)

PRESENTATIONS AND SPEAKING ENGAGEMENTS

"Calculating Intellectual Property Damages: How to Prepare for the 2019 Landscape," with Richard Eichmann, Armando Chavez, and Eric Forister, The Knowledge Group Webinar (February 2019)

"Beyond the *Cammer* Criteria: Arguing Class Certification in Securities Fraud Cases," Howrey, LLC Continuing Legal Education Course (June 2008)

PROFESSIONAL AFFILIATIONS

American Economic Association

American Finance Association

CFA Institute

CFA Society of Washington, DC