

**ELIZABETH MILSARK**  
**Vice President**

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Ms. Milsark specializes in survey research and quantitative analysis in litigation, including data security and privacy, false advertising, and intellectual property (IP) matters. She has served as an expert witness and assisted clients in all phases of the litigation process. Ms. Milsark has conducted qualitative and quantitative analyses in support of academic experts and provided consulting support to attorneys in matters across a variety of industries, including technology, media, retail, and consumer financial products. She has experience designing, fielding, and analyzing surveys and other experimental studies using a variety of methodologies. She has provided support to experts in conducting and evaluating survey research studying consumer attention, interest, understanding, and purchase likelihood in the context of consumer products across industries. Ms. Milsark has also supported consumer behavior experts studying consumer attention to, and evaluation of information throughout, the consumer purchase journey. Her IP experience includes assessing damages resulting from copyright infringement, assessing lost profits due to patent infringement, and analyzing likelihood of confusion in trademark disputes. Ms. Milsark has managed case teams in several class action litigation matters involving violations of the Telephone Consumer Protection Act (TCPA) and assisted in evaluating violation claims, addressing class certification issues such as ascertainability and injury, and supporting experts in assessing whether dialer systems constitute automatic telephone dialing systems (ATDS).

**EDUCATION**

2014            M.B.A., MIT Sloan School of Management  
2008            B.A., economics and psychology (*with honors*), The University of Chicago

**PROFESSIONAL EXPERIENCE**

2008–Present    Analysis Group, Inc.  
                    *Vice President (2021–Present)*  
                    *Manager (2017–2020)*  
                    *Associate (2014–2016)*  
                    *Senior Analyst (2010–2012)*  
                    *Analyst (2008–2010)*

**SELECTED EXPERT ENGAGEMENTS**

- ***Confidential arbitration***  
      *International Chamber of Commerce (ICC) International Court of Arbitration*  
      Expert witness on behalf of large photocopier and printer manufacturer in a trade dress infringement matter. Performed a consumer survey to assess likelihood of forward confusion between competing office-based printing systems in US and international markets. Developed a survey and coauthored an expert report. Matter settled before testimony.

- ***Riseandshine Corporation d/b/a Rise Brewing vs. PepsiCo, Inc.***  
*US District Court, Southern District of New York, 1:21-CV-6324*  
Expert witness on behalf of PepsiCo in a trademark infringement matter. Performed a consumer survey to assess the likelihood of forward confusion between Rise Brewing Co.'s ready-to-drink coffee products and PepsiCo's Mtn Dew Rise Energy energy drink product. Submitted an expert report and testified at deposition.

## **SELECTED CONSULTING EXPERIENCE**

### **Marketing, Surveys, and Consumer Behavior**

- Supported a branding expert's comments on the key factors influencing the efficacy of a celebrity endorsement and applied this framework to a celebrity endorsement of a multi-level marketing company.
- Supported a consumer behavior expert's comments regarding the sufficiency of disclosures in advertising for "freemium"-based financial products. Supported a presentation to Federal Trade Commission (FTC) staff and multiple state attorneys general, and assisted in the preparation of expert reports, deposition, and hearing testimony.
- Supported a consumer behavior expert's comments on the consumer purchase process for life insurance products and the impact of the purchase process on consumer understanding of contractual terms. Supported expert reports and depositions across multiple jurisdictions.
- Supported a branding expert in analyzing the impacts of alleged diversion on brand equity of a haircare line.
- Supported a survey expert's comments on the reliability of a survey conducted to assess the value to consumers of specific smartphone software features. Supported deposition testimony.
- Supported a survey expert's comments on the reliability of a survey conducted to assess the value to consumers of specific streaming TV features. Supported deposition and trial testimony.
- Supported a survey expert's comments on the reliability of a survey conducted to assess consumer understanding of coupon disclosures and practices.
- Supported an expert in reviewing and commenting on the reliability of a survey studying the effectiveness of an advertising campaign that was conducted in the normal course of business by another party.
- Supported a consumer behavior expert's comments on the consumer purchase process for homeowners and automobile insurance products, including the development of a survey studying purchase drivers of insurance products to assess the extent to which specific aspects of cancellation provisions are likely to impact consumer purchase decisions.
- Supported an expert in developing a survey studying consumer switching behavior in the event of a TV network blackout. Supported the expert and counsel through deposition and trial.
- Supported an expert in developing a survey studying the effects of additional disclosures on consumers' likelihood of purchasing an add-on policy to a cable TV package.

- Supported an expert in evaluating whether the opposing expert's survey met scientific standards in a health care dispute involving patient preferences.

### **Intellectual Property**

- Supported a class damages expert in analyzing damages in a false labeling case in the coffee industry. Supported deposition testimony.
- Supported a consumer behavior expert in analyzing the likelihood of confusion in a trademark case in the nutrition industry.
- Supported an expert in assessing lost profits due to patent infringement of a medical device.
- Supported a marketing professor in assessing whether asserted trade dress had achieved secondary meaning.
- Supported an expert in assessing damages in a copyright infringement case. The jury found for our client on all claims, awarding statutory damages and disgorgement of profits.
- Supported a consumer behavior expert in analyzing the likelihood of confusion in a trademark case in the jewelry industry.
- Reviewed and analyzed the results of qualitative marketing research to study survey participants' understanding of industry-specific terms in a music streaming rate-setting proceeding.

### **Telemarketing, Technology, and Data Security**

- Supported a class certification expert in analyzing fax records and consent records in a TCPA litigation matter involving soliciting survey participants. Supported deposition testimony.
- Prepared training materials summarizing databases and key data considerations to assist an attorney team in their facility with the data for hearing.
- Supported a class certification expert in analyzing fax records and consent records in a TCPA litigation matter involving soliciting fax number confirmations. Supported deposition testimony.
- Supported an industry expert in assessing whether a complex software solution met contractual requirements. Supported arbitration testimony.
- Supported a cybersecurity expert in assessing the sufficiency of corporate cybersecurity policies in detecting and resolving security threats.
- Supported a technology expert in assessing whether text messaging platforms constituted ATDS under the TCPA. Supported deposition testimony.
- Supported a class certification expert in analyzing fax information and telecommunications records in a TCPA litigation matter involving a medical device. Reviewed and assessed proposed class identification methodologies and analyzed potential injury.
- Supported a class certification expert in analyzing telemarketing call records in a TCPA litigation matter involving business-to-business calls for a software product. Reviewed and assessed proposed class identification and wireless identification methodologies.
- Supported a class certification expert in analyzing fax records in a TCPA litigation matter involving a medicinal supplement. Reviewed and assessed proposed class identification methodologies and analyzed potential injury.

- Supported a class certification expert in analyzing telemarketing call records in a TCPA litigation matter in the solar energy industry. Reviewed and assessed proposed class identification and wireless identification methodologies.
- Provided consulting assistance and supported a class certification expert in analyzing multi-dialer system telemarketing call records in a TCPA litigation matter in the solar energy industry. Reviewed and assessed proposed class identification and wireless identification methodologies. Assisted in quantifying exposure risk and identifying claimants for settlement.
- Supported an expert in developing two reports that analyzed telemarketing records and customer address data in a TCPA and Telemarketing Sales Rule (TSR) litigation matter. Supported counsel in data production, deposition of opposing experts, and direct and cross examination guidance for two trials.

### **Antitrust and Competition**

- Supported a US Food and Drug Administration (FDA) expert in describing FDA policies and procedures regarding tentative approvals for generic manufacturers in the context of a generic antitrust litigation.
- Supported an expert in analyzing the competitive effects of restrictions in hospitals' marketing activities.
- Supported an expert in analyzing health care competition in Massachusetts for numerous matters, such as analyzing a proposed hospital merger, assessing patient diversion following potential hospital closures, and evaluating provider price variation.
- Supported an expert in analyzing pass-through related to allegations of price-fixing with respect to liquid-crystal display (LCD) panels.
- Supported an expert comparing the pricing of regional providers of industrial chemicals to assess the competitive effects of a joint venture. Presented findings to FTC staff.

### **ARTICLES & PUBLICATIONS**

“Parody and Tarnishment: How Empirical Methods Can Aid Triers of Fact,” with Rene Befurt, Marie Warchol, and Josh Ng, *IPWatchdog* (May 19, 2023)

### **PRESENTATIONS AND SPEAKING ENGAGEMENTS**

“FCC’s Blocking of Unwanted Robocalls: Exploring Implications to the Year Ahead,” webinar, The Knowledge Group (October 2019)

### **PROFESSIONAL ASSOCIATIONS AND MEMBERSHIPS**

American Marketing Association (AMA)

American Bar Association (ABA) Antitrust Section