

PETER RYBOLT



1880 Century Park East (213) 592-2478 (o)
Suite 613 (213) 595-8196 (m)
Los Angeles, CA
Peter.Rybolt@CirqueAnalytics.com

Mr. Rybolt has nearly 20 years' experience in economic research and analysis. He specializes in loss modeling and damages assessment in commercial litigation, chiefly in the areas of media, entertainment, and intellectual property. He has been admitted as an expert in state and federal court, and before domestic and international arbitration panels. Past engagements include cases involving the major studios, international sporting events, national and international television networks, global distributors, game publishers, and internationally known creative artists. He has applied quantitative methods to such complex questions as the expected value of an unfinished film, whether box office performance is a useful predictor of television ratings, the factors affecting broadcast and streaming rights fees, and, yes, the value of a joke. Mr. Rybolt brings extensive industry knowledge and insight, with more than a dozen years in senior leadership positions in the arts.

EDUCATION

MBA, Finance and Strategic Management, USC Marshall School of Business, 2006
BFA, Webster College Conservatory of Theatre Arts, 1982

SPECIALIZED EXPERIENCE AND RESEARCH INTERESTS

Finance and Quantitative Methods, Financial Modeling, Valuation, Statistics

CURRENT POSITION

Vice President, Cirque Analytics, 2023–present

PAST POSITIONS

2007–2023	Analysis Group, Inc., Los Angeles CA Vice President, 2016–2023 Manager, 2011–2015 Associate, 2007–2010
2004–2006	Graduate studies
1982–2004	Freelance producer, director, and actor, more than 100 professional credits

Jackson Hole, WY

Irvine, CA

Los Angeles, CA

Washington, DC

1999–2001	Director of Development, Northlight Theatre, Skokie, IL
1994–1999	Managing Director, The Next Theatre, Evanston, IL
1991–1993	Director of Development, Associate Producer, Organic Theater, Chicago, IL
1987–1990	Founder, Managing Director, Co-Artistic Director, Edgar Road Theatre Company, Chicago, IL

SELECTED EXPERT ENGAGEMENTS

- **Trademark infringement, copyright infringement, breach of contract**
American Arbitration Association
Assessed claimant's damages and respondent's profits arising from infringement and breach of contract claims in a case involving a popular dramatic web series.
- **Breach of contract**
California Superior Court
Assessed damages arising from unlicensed use of a celebrity model's image.
- **Defamation**
US District Court, Western District of Virginia
Assessed damages arising from false claims against an individual by certain internet personalities.
- **Royalty dispute**
International arbitration
Assessed reasonableness and accuracy of audit conclusions related to royalties for a popular MMOG.
- **Copyright infringement**
US District Court, District of Utah
Identified expenses and apportionment of defendants' profits in response to plaintiff's copyright claims in a case involving an independent feature film.
- **Trademark infringement, breach of contract**
US District Court, Central District of California
Identified plaintiff's losses and defendant's profits attributable to trademark infringement and breaches of the parties' franchise and related agreements.
- **Copyright infringement**
US District Court, Central District of California
Rebutted plaintiffs' claims regarding damages and disgorgement of profits arising from alleged infringement of plaintiffs' stock photographs.
- ***Woo v. Roman, et al.***
California Superior Court
Assessed damages arising from wrongful termination and breach of contract. Damages awarded.

- **Misappropriation of trade secrets, breach of contract**
Arbitration
Identified claimant's losses and respondent's profits attributable to misappropriation of trade secrets and breach of contract.
- ***Chih Lin v. American Rena Int'l Corp.***
California Superior Court
Identified profits of plaintiff and cross-defendant derived from trademark infringement. Damages awarded.
- ***Britton v. Riggs and Cloudbreak Ent., Inc.***
California Superior Court
Assessed plaintiff's damages related to breach of contract. Damages awarded.
- **Trademark infringement**
US District Court, Central District of California
Identified profits of defendant derived from trademark infringement.
- **Trademark infringement**
California Superior Court
Identified defendant's profits related to plaintiff's common law trademark claims.

SELECTED PROFESSIONAL EXPERIENCE

Media and Entertainment

Mr. Rybolt has substantial experience in media and entertainment matters, including disputes involving the actual or prospective value of media properties, copyright infringement, completion insurance claims, royalties, and profit participation. Examples include:

- **Effects of COVID on the value of media rights for major sporting events**
Assessed the effect of COVID disruptions on media rights valuations in multiple cases involving major sporting events.
- **COVID-related insurance claims**
Evaluated claims involving COVID-related disruptions in the filming of major motion pictures.
- **Copyright infringement (damages)**
Evaluated lost profits and disgorgement in multiple cases involving, among others, screenplays, finished and unfinished films, musical compositions, and musical recordings.
- **Royalty accounting**
Evaluated claims related to royalty accounting in multiple cases involving the music and video game industries. Analyzed the parties' respective cash

flows from advances and royalties under multiple alternative damage scenarios. Evaluated the accuracy of royalty statement accounting.

- **Equity valuations and profit participation disputes**
Valued actual or prospective ownership interests involving media properties or media-related investments, including numerous profit participation disputes.
- **Media valuation (expected value)**
In multiple cases involving unfinished or unrealized projects, estimated the range of expected returns using past projects in similar genres with the same or similar budgets, distribution, and marketing.
- **Publicity rights**
In multiple cases, estimated the value of an implied celebrity endorsement. Contributed to the development of survey instruments used to assess the value of the endorsement.
- **Effect of product placement on sales**
Demonstrated statistically that diminished product sales could not be tied to purportedly diminished television ratings.
- **Copyright infringement (liability)**
Demonstrated that an expert's analysis of the improbability of certain patterns allegedly constituting copyright infringement violated basic principles of probability analysis.
- **Media valuation (bundling)**
In a case involving the allocation of a bundled rights fee, demonstrated statistically that box office performance is not a useful predictor of cumulative television ratings for popular films.
- **Media valuation (library value)**
Calculated damages in multiple scenarios involving the failure of defendant to maximize revenues from a popular media library.
- **Valuation of broadcast license fees**
Demonstrated that plaintiff's analysis purporting to estimate a market-based license fee for a primetime television program (and the consequent effect on plaintiff's contingent compensation) violated basic statistical principles.
- **Motion picture exhibition**
Assessed exhibitor profitability and box office performance related to specialized theatre features.

Other Intellectual Property

Mr. Rybolt has also evaluated damages and related claims in copyright, trademark, trade dress, and patent infringement litigation, as well as

misappropriation of trade secrets, false designation, and false advertising disputes. Examples in this area include:

- **Trademark, trade dress, false advertising, false designation**
Evaluated plaintiffs' losses, defendants' revenues, defendants' deductible expenses, and/or apportionment of profits in numerous cases involving consumer goods and related industries. Contributed to the design and implementation of multiple consumer confusion surveys.
- **Misappropriation of trade secrets**
Evaluated plaintiffs' losses and/or defendants' profits in multiple trade secrets cases, including cases involving cellular technology, medical and dental devices or technology, and proprietary customer data and marketing strategies, among others.
- **Patent infringement (preliminary injunction)**
Assessed the likelihood of irreparable harm to plaintiff during the pendency of trial. (See related article below.)
- **Patent infringement (damages)**
Evaluated plaintiffs' lost profits and/or a reasonable royalty based on the factors identified in *Panduit* and *Georgia-Pacific*. Individual cases have involved medical and/or dental devices, automotive parts (including design patents), military technology, network security, wireless communication, anti-piracy and piracy detection, and cellular technology, among others.
- **Copyright infringement (pretrial motion practice)**
In multiple cases involving fabric design, supported counsel in pre-trial motions on the availability of disgorgement as a remedy in cases of downstream infringement. (See related article below.)
- **Copyright infringement (liability)**
In a case involving the effect of free video clips on paid streaming and DVD sales, demonstrated no causal relationship between the alleged infringement and plaintiff's declining sales. Case dismissed on summary judgment.

Other Commercial Litigation

Mr. Rybolt has applied financial, accounting, and statistical concepts and methods in a broad range of commercial litigation contexts, including the following:

- **Class action (class certification and damages)**
Evaluated plaintiffs' motions for class certification and damages in automotive, hazard insurance, medical insurance, consumer retail, franchise, title insurance, and mortgage and consumer lending industries, among others.

- **Antitrust, conspiracy in restraint of trade**
In multiple cases, evaluated price and quantity effects arising from alleged restraint of trade. Assessed plaintiffs' lost profits claims.
- **Mass tort litigation**
In product defect case, evaluated the likelihood of product failure, the likelihood of a claim in the event of failure, and the expected result of settlement negotiations or litigation.
- **Breach of contract, fraud, fraudulent inducement, defamation, unfair and deceptive trade practices (UDTP)**
In numerous cases and industries, evaluated damages arising from alleged breach of contract, fraud, fraudulent inducement, defamation, and/or UDTP.
- **Valuation**
In numerous litigation contexts, assessed the value of equity interests, minority discounts and control premia, equity options, real assets, and intellectual property.
- **Regulatory rate setting**
Supported expert testimony before rate-setting agencies and presentations to industry trade groups in title insurance. (See related article below.)
- **In re Calpine Corporation**
US Bankruptcy Court, Southern District of New York
Supported Professor Jerry Arnold in an analysis of issues related to substantive consolidation in bankruptcy. Court ruled in favor of debtor, granting the largest substantive consolidation in US history.

Securities

Mr. Rybolt's experience in commercial litigation extends to various securities-related actions:

- **ERISA litigation**
Multiple cases. Conducted research and analysis of market dynamics, competition, and fee structures in defined contribution plans. Evaluated the reasonableness of investment management and recordkeeping fees, and the fiduciary processes of plan committees and service providers. (See related article below.)
- **Mortgage-backed securities (MBS) litigation**
Multiple cases. Provided detailed review and assessment of the causes and consequences of the mortgage and financial crisis. Assessed due diligence practices in the MBS industry.

- **Shareholder actions**
Multiple cases. Assessed the reasonableness of board actions or bylaws provisions. Evaluated the effect on share or acquisition price.
- **Securities lending**
Multiple cases. Assessed the reasonableness of investment management practices and standards of prudence in securities lending programs.
- **Litigation participation securities**
Researched specialized warrants derived from the outcome of ongoing litigation, including the historical context of the litigation and the nature and development of the warrants. Analyzed price correlation with parent company stock.

PUBLICATIONS AND PRESENTATIONS

“Preliminary Injunctions: Irreparable Harm and the Role of the Damages Expert,” with Jeffrey H. Kinrich, presentation to the Orange County Bar Association Litigation Section, May 2023

“Proving Loss Causation,” with Steven B. Boyles and Everett P. Harry, in Everett P. Harry and Jeff Kinrich, eds., *Lost Profits Damages: Principles, Methods, and Applications*, Valuation Products and Services (2022, 2017)

“ERISA Litigation Involving Welfare Plans,” with Mark Gustafson, Lee Heavner, and Philip Hall-Partyka, *Recent Developments in Business and Corporate Litigation*, Volume 1, ABA Publishing (2020)

“Causation and the Role of the Damages Expert,” ABA Commercial & Business Litigation Committee (December 2018)

“Trademark Infringement: Crafting Your Best Defense,” presentation to The Knowledge Group (August 2018)

“More Blurred Lines: On Downstream Infringement and the Disgorgement of Profits,” *les Nouvelles*, Licensing Executives Society International (March 2018)

“Causation and the Role of the Damages Expert,” *The Witness Chair*, California Society of Certified Public Accountants (Summer 2017)

“An Overview of the Economics of the Title Insurance Industry,” with Bruce A. Strombom, Ph.D., and Peter P. Simon, Ph.D., presented to the National Conference of Insurance Legislators (March 2013)

“Valuation of Developmental Stage IP,” with T. Christopher Borek and Jeffrey H. Kinrich, *The Witness Chair*, California Society of Certified Public Accountants (Summer 2010)