

When you need more than an Accountant... Get an Expert.

Types of Analyses

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Lost Profits

White Zuckerman analyzes lost profits resulting from a breach of contract or understanding between the parties or interference or interruption of business. To establish lost profits, a comparison is made between anticipated or “but-for” profits and actual profits of the plaintiff. Anticipated profits may be based on historical performance or projections or the relationship of the plaintiff’s performance to the market or a competitor. Lost profits may diminish over time, as the plaintiff tries to reasonably mitigate damages. If the loss is permanent, lost value of the business may be claimed. The relevant damage period is fact specific.

In patent infringement matters, the Panduit Test is first applied in order to claim lost profits. In infringement matters, damages are may be determined by lost profits, but not less than a reasonable royalty.

Unjust Enrichment

Unjust enrichment, which represents additional profits gained by the defendant due to wrongful acts may be analyzed in commercial cases (other than patent litigation), when appropriate.

Out of Pocket Costs

Out of pocket costs of the plaintiff may be an alternative to lost profits in instances where they exceed lost profits.

Reasonable Royalties

White Zuckerman analyzes reasonable royalties, which may be attributable to infringement of the plaintiff’s patent, trademark or copyright. The amount or percentage of reasonable royalties may be determined by consideration of the Georgia Pacific Factors.

Lost Value of Business

If lost profits are permanent, an alternative damage measure may be lost value of the business, which is determined by the difference in value of the business pre-incident compared to post-incident. Many of White Zuckerman’s professionals are business appraisers with certifications as Accredited Senior Appraisers, Certified Valuation Analysts and Accreditation in Business Valuation. Typically, the value of a business is determined by three approaches-the Income Approach, the Market Approach and the Cost Approach.

White Zuckerman also has professionals with certifications in real estate appraisal by the State of California and other organizations, since many businesses have real property holdings.