

KRISTINA S. SHAMPANIER, PH.D.

CONTACT

2029 Century Park East
Suite 1280
Los Angeles, CA 90067
T: +1 310 728 2042
M: +1 617 372 4928
F: +1 310 728 2070
kshampanier@compasslexecon.com

EDUCATION

2007, *PhD in Marketing (management science)*, MIT Sloan School of Management, Cambridge, MA
Dissertation: "Essays in Behavioral Decision Making"
2002, *MA in Economics, cum laude*, New Economic School, Moscow, Russia
Thesis: "Branding"
2001, *MS in Mathematics, cum laude*, Moscow State University, Moscow, Russia
Specialization: Algebra
Thesis: "Ranks of Subalgebras of Free Non-Associative Algebras"

PROFESSIONAL EXPERIENCE

2021 - Present, Compass Lexecon
Executive Vice President (2022–Present)
Senior Vice President (2021)
2005 - 2021, Analysis Group Inc.
Consultant (2020–2021)
Vice President (2016–2020)
Manager (2009–2015)
Associate (2007–2009)
Intern Associate (2005)
2003 - 2007, MIT Sloan School of Management
Research Assistant, Professor Dan Ariely (2003–2007)
Teaching Assistant, Consumer Behavior, Professor Yehoshua Tsal (2005–2006)
Teaching Assistant, Managerial Psychology Laboratory, Professors Tom Allen and Dan Ariely (2003–2005)
2002, New Economic School, Moscow, Russia
Teaching Assistant, Econometrics III, Professor Stanislav Anatoliev

SELECTED EXPERT CASEWORK

- ***Securities and Exchange Commission v. Ripple Labs, Inc., Bradley Garlinghouse, and Christian A. Larsen, 20 Civ. 10832 (AT) ECF Case***
United States District Court, Southern District of New York
Evaluated, on behalf of the defendant, opinions of the plaintiff's expert regarding perceptions and behaviors related to a cryptocurrency. Submitted rebuttal expert report and was deposed (Dec 2021).
- **Household chemicals false advertising class action matters**
Conducted conjoint analysis survey and market simulations to evaluate the price premium associated with a challenged advertising claim on behalf of the defendants. Submitted a letter to counsel and expert declaration describing the methodology and results. The findings were used by counsel at mediation negotiations to evaluate potential range of damages. The case settled after one day of mediation.

Conducted similar analysis for a related case involving an allegedly omitted warning. Submitted a letter to counsel and expert declaration.

- **Beauty products trademark infringement**

Designed an experiment/survey to test for consumer confusion in a trademark infringement matter involving a beauty product for the defendant (applicant) before the Trademark Trial and Appeal Board of the US Patent and Trademark Office. Filed an expert report, after which the opposer withdrew all oppositions.

- **Banking false advertising class action**

Conducted an online survey in the choice experiment format on behalf of the defendant to evaluate whether the allegedly misleading omission had an impact on consumer purchase decisions.

- **Fast food employment litigation**

Evaluated the possibility of interviewing class members and reviewed the opposing expert's approach on behalf of the defendant, a fast-food chain.

- ***A.R., by and through Her Next Friend, Susan Root, et al., v. Elizabeth Dudek, in Her Official Capacity as Secretary of the Agency for Health Care Administration, et al. and United States of America v. The State of Florida***

US District Court, Southern District of Florida

Evaluated on behalf of the defendant a set of unscripted interviews conducted by the plaintiffs' expert in a health care case involving preferences of patients' families. Submitted rebuttal expert report and was deposed (2016).

- **Hospitality business trademark infringement**

Designed and fielded an "Eveready" experiment/survey to test for consumer confusion in a trademark infringement matter in the hospitality business for the defendant (registrant) before the Trademark Trial and Appeal Board of the US Patent and Trademark Office.

- **Electronics false advertising**

Submitted three reports on behalf of the challenged party in a case considered by the National Advertising Division of the Council of Better Business Bureaus. Opined on the merits of the design of a consumer electronics product test conducted for advertising claims.

SELECTED CONSULTING EXPERIENCE

Intellectual Property

- **Trademark and trade dress infringement matters**

Developed numerous online experimental design surveys in the "Eveready" and "Squirt" format and rebuttal analyses of "Eveready" surveys testing consumer perception and confusion with respect to wordmarks, design marks, trade dress, and an advertising slogan in a variety of cases, including in clothing, compliance, food, fashion, auto, luxury goods, entertainment, outdoor activities, and music industries. Addressed issues of materiality (via a choice experiment survey and open-ended purchase driver survey), dilution, and secondary meaning. Assisted experts in survey design, implementation, and analysis of surveys, as well as in drafting reports and preparations for depositions. Assisted counsels with preparation for depositions of opposing experts. Such cases include:

- ***Denimafia Inc. v. New Balance Athletic Shoe, Inc. et al. and New Balance Athletic Shoe, Inc. v. Denimafia Inc.***

US District Court, Southern District of New York

Supported Professor Joel Steckel, who was retained by New Balance, the defendant and counter-claimant in a trademark infringement matter involving the "less is more" <=> symbol used on New Balance Minimus footwear. Assisted Professor Steckel in designing, fielding, and analyzing an "Eveready" survey/experiment testing for reverse confusion (i.e., confusion with respect to the source, sponsorship, or affiliation of Denimafia products), drafting report, and preparation for deposition. In its summary judgment in favor of New Balance, the court credited Professor Steckel's survey with showing "a zero percent rate of reverse confusion with respect to the source of jeans bearing the <=> mark" and

discounted Denimafia's objections to the survey design. Denimafia appealed the summary judgment decision, but ultimately did not pursue the appeal and the appellate court dismissed it.

- **Luxury goods trademark infringement and dilution matter**

Developed an online experimental design survey to test whether consumers noticed and how they perceived a logo briefly appearing in a TV commercial. Evaluated opposing expert's survey. Assisted expert in survey design, implementation, and analysis of survey; developing rebuttal points for opposing expert's survey; drafting reports; and preparation for depositions; assisted counsel in preparation for deposition of opposing expert.

- **Smartphone and tablet patent infringement matters**

Assisted experts in survey design, report drafting, and preparation for deposition and trial testimony. Evaluated opposing expert's surveys (including a conjoint-style survey) aimed at isolating the value to consumers of the patented features in smartphones. Assisted counsel with preparation for and at depositions of opposing expert and data witnesses. Assisted at trial.

- ***Hitachi Maxell, Ltd. v. ZTE Corp. and ZTE USA Inc.***

US District Court, Eastern District of Texas, Texarkana Division

Supported Tülin Erdem, Professor of Business and Marketing at the NYU Stern School of Business, from case inception to trial on behalf of Maxell and Mayer Brown. Assisted in designing and implementing a survey of smartphone and tablet owners to assess the awareness and relative importance of a feature disclosed in one of the asserted patents: automatic GPS map orientation. The damages expert used the survey results to inform her analysis of reasonable royalty damages. The jury found that the asserted patents were valid and infringed by ZTE and awarded Maxell damages of \$43.3 million.

False Advertising

- ***Kenneth Hobbs v. Brother International Corporation***

US District Court, Central District of California

Supported Professor Joel Steckel of New York University Stern School of Business in conducting two surveys on behalf of Brother International Corporation, the defendant in a consumer class action false advertising case. The plaintiff claimed that the printers at issue did not scan complete pages, causing the edges of images to be truncated. One survey evaluated consumer awareness of a printer's alleged malfunctioning. The other, a survey/experiment, addressed the materiality of this limitation to consumers. In its order denying class certification, the court cited the experiment involving more than 450 people who had purchased or planned to purchase a printer close to the time of the survey, which found that "consumers chose the Brother printer with nearly identical frequency regardless of whether they were made aware of the unscannable margin at the time of their selection." The plaintiff agreed to dismiss his case with prejudice and waive his right to appeal. Assisted Professor Steckel with design, implementation, and analysis of the studies; drafting reports and declarations; and preparation for deposition.

- **E-Retailer false advertising matter**

Supported Professor Joel Steckel in conducting two experiments on behalf of a major e-retailer accused of using misleading reference price terms (e.g., "Compare at"). In the first study, groups of consumers visiting the defendant's website were randomly assigned to view the reference price labels as either "MSRP" (manufacturer's suggested retail price) or "Compare" throughout their shopping session and subsequent website visits. No difference in the sales conversion rate was found. Further, a survey of consumers who made purchases during the study period showed no difference in recall of the product price, the reference price, or the term used with the reference price. The second study, conducted with an online consumer panel, found that consumers' understanding of reference prices did not depend on the label used (e.g., "was," "compare at," "compare," and "MSRP"). Assisted in design, implementation, and analysis of both studies, and in preparation of deposition and trial testimony.

- **Online services false advertising matter**

Evaluated opposing experts' surveys testing consumer perception of charges for an online service. Assisted in drafting report and counsel's briefs, as well as in preparation for depositions. Assisted counsel in preparation for depositions of opposing experts.

- **Cigarette false advertising matter**

Evaluated opposing counsel's survey-like methodology to evaluate consumer perception of cigarette packaging. Assisted expert in drafting declarations and report.

Corporate Acquisitions

- **AT&T's acquisition of DIRECTV – survey of consumer preferences**

Supported Professor Ravi Dhar of the Yale School of Management in developing, conducting, and analyzing a survey examining consumer attitudes toward bundled Internet and television services, in a case widely covered by the media. AT&T and DIRECTV cited the outcome of the study in their applications to the Federal Communications Commission (FCC), pointing to the benefit to consumers when Internet and television services are delivered by the same provider. The FCC and the Department of Justice approved the acquisition. Assisted Professor Dhar in survey design, implementation, and analysis, as well as report drafting.

Antitrust

- **Microsoft antitrust matters**

- ***Jim Hood, Attorney General ex rel. State of Mississippi v. Microsoft Corporation***
Chancery Court of Hinds County, Mississippi
- ***Pro-Sys Consultants Ltd. and Neil Godfrey v. Microsoft Corporation and Microsoft Canada Co./Microsoft Canada CIE***
Supreme Court of British Columbia

Developed affirmative damages analysis and rebuttals of the plaintiffs' damages analysis and class certification arguments in the cases involving allegations of Microsoft's overcharging consumers for its operating systems, word processors, and spreadsheet products.

- **Credit cards antitrust matter**

Developed an online experimental design survey to expose issues with opposing expert's survey testing consumer reaction to retailers' potential credit card policies. Assisted expert in survey design, implementation, and analysis preparation of report; and in preparation for and at deposition. Assisted counsel in preparation for deposition of opposing expert.

- **High tech antitrust matters, including *Advanced Micro Devices, Inc. v. Intel***

US District Court, District of Delaware

Analyzed incremental costs for price/cost analysis. Assisted in data production and analysis, drafting reports, deposition preparation, and at deposition.

PUBLICATIONS

"Choice Experiments," with Joel Steckel, Rebecca Kirk Fair, and Anne Cai in *Legal Applications of Marketing Theory*, Cambridge University Press, Jacob Gersen and Joel Steckel, eds., 2022-2023, forthcoming

"Patient Quality of Life and Benefits of Leptin Replacement Therapy (LRT) in Generalized and Partial Lipodystrophy (GL, PL)," with Omer Ali, Keziah Cook, Edward Tuttle, Charles Gerrits, and Rebecca Brown, *Diabetes*, Vol. 61, Supplement 1, 1331-P, 2018

"How To Interpret A Contract? Ask Those Who'd Sign It," with Omri Ben-Shahar, Lior Strahilevitz, Duo Jiang, and Rebecca Kirk Fair, *Law360*, March 21, 2018

"Survey And Real-World Data: A Winning Combination," with Peter Simon, Riddhima Sharma, and Rebecca Kirk Fair, *Law360*, July 2017

“What Consumers Really Think about Reference Price Labels,” with Rebecca Kirk Fair, Laura O’Laughlin, Jesse Shea, and Joel Steckel, *Law360*, May 2017

“Probabilistic Price Promotions – When Retailing and Las Vegas Meet,” with Dan Ariely and Nina Mazar, *Management Science*, Vol. 63, No. 1, pp. 250-266, 2016

“Zero as a Special Price. The True Value of Free Products,” with Dan Ariely and Nina Mazar, *Marketing Science*, Vol. 26, No. 6, pp. 742-757 (lead article), 2007

“How Small Is Zero Price? The True Value of Free Products,” *Advances in Consumer Research*, Vol. 33, pp. 254-255, 2006

“Algorithms Realizing Rank and Primitivity of Systems of Elements of Free Non-Associative Algebras,” *Fundamental and Applied Mathematics*, Vol. 6, No. 4, pp. 1229-1238, 2000

SELECTED PRESENTATIONS, POSTERS, AND SPEAKING

“Discrete Choice and SF-36 Estimates of Patient Quality of Life and Benefits of Leptin Replacement Therapy (LRT) in Generalized and Partial Lipodystrophy (GL, PL),” poster with Omer Ali, Keziah Cook, Don Lee, and Edward Tuttle, 21st European Congress of Endocrinology, Lyon, France, May 2019

“Surveying the Truth: False Advertising and Trademark Litigation,” with August Horvath and Joel Steckel, first webinar in the series, *Deceit and Denial: The Role Surveys Play in False Advertising and Trademark Litigation*, American Bar Association’s Section of Antitrust Law Advertising Disputes & Litigation Committee, February 2016

“Listening to Customers – How to Ask the Right Question, Surveys in Litigation,” recurrent lecture at Professors Jiwoong Shin and Aniko Oery’s M.B.A. classes, *Listening to the Customer*, Yale School of Management, 2012, 2013, 2015, and 2016

“How Small is Zero Price? The True Value of Free Products,” Association for Consumer Research, North American Conference, San Antonio, TX, and London Business School, 2005

PROFESSIONAL ASSOCIATIONS AND MEMBERSHIPS

- *Marketing Science* “Ambassador” (until 2018)

PROFESSIONAL ASSOCIATIONS AND MEMBERSHIPS

2005 - 2006, The Zannetos Fund Fellow, Massachusetts Institute of Technology

2005 - 2006, The Stuart Fund Fellow, Massachusetts Institute of Technology

2006, AMA-Sheth Foundation Doctoral Consortium Fellow

2004 2005, MasterCard Fellow, Massachusetts Institute of Technology

2003, The Russell Sage Summer Institute, Trento, Italy

2002 - 2003, DuPont Fellow, Massachusetts Institute of Technology

LANGUAGES

Russian (native)

French (intermediate)