

## **Theo Mandel, PhD**

### **Expert Witness Experience**

#### **Theo Mandel, PhD**

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### **Professional Background**

Mandel provides expert witness consulting on software user interface design, including intellectual property, patents, and trademarks regarding methodologies and interface techniques for software applications and mobile apps from the 1980's to the present.

Dr. Mandel has over 40 years of experience in software design and development, specializing in user experience design, user research, consumer psychology, prototyping and evaluation of software, applications, websites, and mobile apps.

Mandel earned M.A. and Ph.D. degrees in Cognitive Psychology, conducting research in human cognition and perception. This academic field is the psychological underpinning for all software user interface and usability methodologies, skills and techniques.

Dr. Mandel had an 11-year career in IBM and was a member of the leading-edge Common User Access (CUA) User Interface Architecture group. This team designed and prototyped IBM's OS/2 user interface. As a member of the IBM CUA team, he researched, designed, prototyped, published and patented Graphical User Interface (GUI) and object-oriented user interface (OOUI) technology. The team wrote industry-leading guidelines for Windows and OS/2 operating systems and application design.

After an 11-year IBM career, Mandel has 30 years' experience as a well-respected user interface design and usability consultant across a wide range of industries: healthcare, medical, finance, insurance, e-commerce, payments processing, and education. Clients include PayPal (world's largest trusted payment processing company), Pearson Education (world's largest education company) and UnitedHealth.

Theo is the author of two books, "The Elements of User Interface Design" (John Wiley & Sons, 1997) and "The GUI-OOUI War: The Designer's Guide to Human-Computer Interfaces" (John Wiley & Sons, 1994). These books cover the historical background of Graphical User Interfaces (GUIs) and Object-Oriented User Interfaces (OOUIs).

#### **Expert Witness Activity Summary (Including non-public litigation work)**

- Total Cases: 7
- Trial Testimony: 1 (Federal Court)
- Depositions: 5
- Expert Declarations/Reports: 5
- Expert Rebuttal Reports: 3

## **Expert Witness Consulting & Litigation Experience**

### **Dun & Bradstreet, Inc. v. Tropare, Inc. 2021 (Ongoing)**

Mandel is a software user experience (UX) expert for Dun & Bradstreet, Inc. (plaintiff) in a software contract dispute filed against Tropare, Inc. (defendant). The case is ongoing.

#### **Expert Activities to Date:**

- Ongoing research and internal reports

### **Katzkin Leather, Inc. v. Roadwire, LLC 2020 - 2022**

Mandel is a user experience (UX) and consumer psychology expert for Katzkin Leather, Inc. (plaintiff) in an intellectual property and trademark dispute filed against Roadwire, LLC and Classic Soft Trim, Inc. (defendants). The case has been settled.

#### **Expert Activities:**

- Ongoing research and internal reports
- Expert Report (August 5, 2021)
- Deposition (October 1, 2021)

#### **Case Information:**

Case Number: 2:2020cv02093, Filed March 3, 2020  
Jurisdiction: US District Court for the Central District of California  
Nature of Suit: Intellectual Property and Trademark  
Plaintiff: Katzkin Leather, Inc.  
Defendant: Roadwire, LLC and Classic Soft Trim, Inc.

#### **Plaintiff Representation:**

Don Howarth, Howarth & Smith – Los Angeles  
Suzelle M. Smith, Howarth & Smith – Los Angeles  
Katherine Hight, Howarth & Smith – Los Angeles

#### **Case Dockets:**

<https://dockets.justia.com/docket/california/cacdce/2:2020cv02093/775085>

## **Karl Storz Endoscopy-America, Inc. v. Steris Corporation 2019**

Mandel was a software user experience (UX) and usability expert for the Steris Corporation (defendant) in a patent dispute filed by Karl Storz Endoscopy-America, Inc. The case was settled in September 2019.

### **Expert Activities:**

- Expert Rebuttal Reply Report (February 2019)
- Deposition (April 2019)
- Expert Declaration (September 2019)

### **Case Information:**

Case Number: 1:2018cv01691, Filed July 20, 2018  
Jurisdiction: Ohio Northern District Court  
Judge: Dan Aaron Polster  
Nature of Suit: Patent  
Plaintiff: Karl Storz Endoscopy-America, Inc.  
Defendant: Steris Corporation

### **Plaintiff Representation:**

Robert G. Cohen, Kegler, Brown, Hill & Ritter - Columbus  
Robert D. Keeler, Whitmyer IP Group  
Michael J. Kosma, Whitmyer IP Group  
Christopher J. Stankus, Whitmyer IP Group  
Wesley W. Whitmyer, Jr., Whitmyer IP Group

### **Defendant Representation:**

Steven M. Auvil, Squire Patton Boggs (US) - Cleveland  
Tamara D. Fraizer, Squire Patton Boggs (US) - Palo Alto

### **Case Dockets:**

- <https://dockets.justia.com/docket/ohio/ohndce/1:2018cv01691/245358>

## **Federal Trade Commission v. DIRECTV, Inc., et. al. 2013 – 2017**

Mandel was a user experience (UX), consumer psychology, and usability expert for the Federal Trade Commission (FTC) regarding fraudulent and deceptive website practices by DIRECTV, Inc. The settlement demand was \$3.95 billion. ([FTC Press Release](#))

### **Expert Activities:**

- Expert Report (September 2016)
- Deposition (October 2016)
- Expert Rebuttal Reply Report (November 2016)
- Deposition (December 2016)
- Trial testimony (August 2017)

### **Case Information:**

Case Number: 15-cv-01129-HSG  
Jurisdiction: U.S. District Court for the Northern District of California  
Judge: Haywood S. Gilliam  
Plaintiff: Federal Trade Commission  
Defendant: DIRECTV, Inc.  
Nature of Suit: Deceptive Print, Television and Web Sales

### **FTC Attorneys:**

Jonathan E. Nuechterlein, Eric D. Edmonson, Raymond E. McKown, Erika Wodinsky, Stacy Procter, Jacob A. Snow, Emily Burton, Matthew Gold

### **DIRECTV Attorneys:**

Chad S. Hummel, Michael Yaghi, Clayton S. Friedman, Mark D. Campbell, Ryan M. Sandrock. Bridget Johnsen (Sidley Austin LLP), Jeffrey Tillotson (Tillotson Law)

### **FTC Information:**

- <https://www.ftc.gov/enforcement/cases-proceedings/102-3141/directv>
- <https://www.ftc.gov/news-events/press-releases/2015/03/ftc-charges-directv-deceptively-advertising-cost-its-satellite>
- <https://www.ftc.gov/news-events/blogs/business-blog/2015/03/ftc-says-directv-wasnt-so-direct-about-fees-negative-options>

### **Case Dockets:**

- <https://dockets.justia.com/docket/california/candce/3:2015cv01129/285556>
- <https://www.plainsite.org/dockets/2khu2o3cf/california-northern-district-court/federal-trade-commission-v-directv-inc-et-al/>

## **Synca Direct Inc. v. Scil Animal Care Company & Vet Novations 2016 – 2017**

Dr. Mandel served as an software user interface design expert witness in a license breach of contract litigation case brought by Synca Direct Inc. (plaintiff) against Scil Animal Care Company (defendant). I represented Scil Animal Care Company, the defendant.

### **Expert Activities:**

- Expert Report (July 2016)
- Expert Rebuttal Reply Report (August 2016)

### **Case Information:**

Jurisdiction: U.S. District Court for the Northern District of New York  
Plaintiff: Synca Direct Inc.  
Defendant: Scil Animal Care Company  
Counsel: Moses & Singer LLP (Defendant)  
Nature of Suit: Breach of Contract

## **Microsoft Corporation v. Motorola, Inc. 2011**

Dr. Mandel served as an expert research consultant for Motorola, Inc. (defendant) in the 2011 Microsoft Corp. vs. Motorola, Inc. patent infringement lawsuit (Patent No. 5,664,133, September 1997). The Complaint was filed by Microsoft Corporation against Motorola in the International Trade Commission (337-TA-744) and in federal court in the Western District of Washington (210-cv-01577).

Mandel conducted research on the patent infringement lawsuit and provided materials for discovery. Mandel, as an IBM team member, published materials that pre-dated and invalidated the Microsoft user interface design patent.

### **Expert Activities:**

- Expert litigation consulting
- Deposition with Microsoft Corp., Motorola, Inc., and IBM Corp. (June 2011)

### **Case Information:**

Case Number: 210-cv-01577 (International Trade Commission 337-TA-744)  
Jurisdiction: U.S. District Court for the Western District of Washington  
Plaintiff: Microsoft Corp.  
Defendant: Motorola, Inc.  
Counsel: Quinn Emanuel Urquhart & Sullivan, LLP (Defendant)  
Counsel: Weitzman Law Offices, LLC (Deponent)  
Nature of Suit: Patent