

**Rebuttal Report of Brian C. Becker, Ph.D.**



PRECISION ECONOMICS, LLC  
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Rebuttal to July 24, 2023 Expert Report of Brad Rolph, Grant Thornton

In the Matter of BlackBerry Limited v. His Majesty the King, Case No. 2019-1378(IT)G

by

Brian C. Becker, Ph.D.

President

Precision Economics, LLC

A handwritten signature in black ink, appearing to read 'Brian C. Becker', is written over a horizontal line. The signature is fluid and cursive.

22 September 2023

Prepared for

Department of Justice Canada

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**GLOSSARY**

BlackBerry	The BlackBerry Group
BB CANADA	BlackBerry Limited
BB USA	BlackBerry Corporation, Arizan Corporation, Ascendent Telecommunications Inc., and Dash Navigation Inc.
CRA	Canada Revenue Agency
DOJ	Department of Justice Canada
FAPI	Foreign Accrual Property Income
FAT	Foreign Accrual Tax

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### I. Overview and Executive Summary

#### A. Assignment and Overview

The BlackBerry Group (“BlackBerry”) is a multinational company that designed, developed, and manufactured smartphones and tablets while providing software and other services.<sup>1</sup> During the 2008-2010 period, BlackBerry earned a (pre-R&D) operating profit margin of 30.3 percent on sales of more than \$32 billion.<sup>2</sup> See **Table 1** below.

**Table 1: Income Statements for BlackBerry: FY 2008-2010**

(\$USD Millions) YE February	2008	2009	2010	Total	Formula
Total Revenue	\$6,009.4	\$11,065.2	\$14,953.0	\$32,027.6	a
Cost of Sales	\$2,928.8	\$5,967.9	\$8,369.0	\$17,265.7	b
Gross Profit	\$3,080.6	\$5,097.3	\$6,584.0	\$14,761.9	c = a-b
Operating Expenses					
Research and development	\$359.8	\$684.7	\$965.0	\$2,009.5	d
Selling, marketing and administration	\$881.5	\$1,495.7	\$1,907.0	\$4,284.2	e
Amortization	\$108.1	\$194.8	\$310.0	\$612.9	f
Litigation	--	--	\$164.0	\$164.0	g
Impairment of goodwill	--	--	--	\$0.0	h
Total	\$1,349.4	\$2,375.2	\$3,346.0	\$7,070.6	i = sum(d:h)
Operating Profit	\$1,731.2	\$2,722.1	\$3,238.0	\$7,691.3	j = c-i
<b>Operating Margin</b>	<b>28.8%</b>	<b>24.6%</b>	<b>21.7%</b>	<b>24.0%</b>	<b>k = j/a</b>
<b>Pre-R&amp;D Operating Margin</b>	<b>34.8%</b>	<b>30.8%</b>	<b>28.1%</b>	<b>30.3%</b>	<b>l = (j+d)/a</b>

BlackBerry’s intangible assets<sup>3</sup> were worth approximately \$32 to \$46 billion. See **Table 3** below.

<sup>1</sup> Retrieved July 28, 2023 from <https://www.blackberry.com/us/en/company/overview>.; Blackberry Limited v. His Majesty the King. (August 1, 2023). "Amended Notice of Appeal." Tax Court File No. 2019-1378(IT)G, p. 2.

<sup>2</sup> All figures are in U.S. dollars unless otherwise specified.

<sup>3</sup> I am using the terms intangible assets and intellectual property to reflect the same assets in this report, unless otherwise noted.

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**Table 3: BlackBerry’s Intangible Assets: FY 2008-2010**

<b>\$USD Billions</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>Formula</b>
Market Capitalization (Fiscal Yearly Average) /1/	\$45.1	\$50.4	\$37.8	a
Book Value of Equity as of Fiscal Year End	\$3.9	\$5.9	\$7.6	b
Intangibles Recorded on Balance Sheet	\$0.5	\$1.1	\$1.3	c
<b>Intangible Assets (Intellectual Property) /2/</b>	<b>\$41.7</b>	<b>\$45.6</b>	<b>\$31.6</b>	<b>d = a-b+c</b>
Intangible Assets as Percent of Market Cap	92.3%	90.5%	83.4%	e = d/a

Notes:

/1/: Yearly market capitalization calculated using Toronto Stock Exchange prices.

BlackBerry operates its global businesses through various subsidiary companies and a parent company, BlackBerry Limited (“BB CANADA”). Blackberry has structured its asset ownership and transfer pricing system in such a way that nearly all of its intangible assets (intellectual property) are owned by BB CANADA.<sup>4</sup>

BB CANADA engaged BlackBerry Corporation and its subsidiaries—Arizan Corporation, Ascendant Telecommunications Inc., and Dash Navigation Inc—(collectively, “BB USA”) to perform certain contract research and development services. At the related party transfer price set by BlackBerry, BB USA recorded an operating profit of \$17.1 million on such operations in 2010. See **Table 4** below.

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<sup>4</sup> Rolph, Brad. (July 24, 2023). “Expert Report of Brad Rolph.” 2019-1378(IT)G, Schedule O, p. 10.

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**Table 4: Income Recorded by BB USA for R&D Services Provided to BB CANADA: FY 2010**

(\$USD Millions) YE February 27, 2010	Arizan	Ascendent	Dash	BlackBerry Corporation	Total BB USA
Revenue for R&D Services from BB CANADA	\$0.3	\$16.9	\$6.9	\$206.8	\$230.8
Cost of Services	\$0.3	\$15.6	\$6.4	\$191.5	\$213.7
Net R&D Profit	\$0.0	\$1.2	\$0.5	\$15.3	<b>\$17.1</b>
Markup on Costs	8.0%	8.0%	8.0%	8.0%	8.0%

It is my understanding that the Canada Revenue Agency (“CRA”) has opined that BB USA’s recorded profit of \$17.1 million would be classified as foreign accrual property income (“FAPI”) and included as taxable income for BB CANADA.<sup>5</sup>

I also understand that BlackBerry disagrees with CRA’s FAPI classification noted above. Among other submissions in this dispute, BlackBerry has engaged a transfer pricing economist, Brad Rolph, to write a report that opines on certain questions (“ROLPH REPORT”).<sup>6</sup>

The ROLPH REPORT creates four alternative structures that (presumably) BB CANADA and BB USA could have used instead of the R&D services format that was adopted—and resulted in this dispute. The ROLPH REPORT (Mr. Rolph) opines that *none* of these four alternative scenarios would trigger a FAPI inclusion.<sup>7</sup> The ROLPH REPORT also opines that the tax payments owed by BB CANADA would be lower in each alternative scenario than the taxes actually paid by BB CANADA. The ROLPH REPORT implies that such a finding indicates that BB CANADA reported enough profits/paid enough tax under its actual potential FAPI structure.<sup>8</sup>

The Department of Justice Canada (“DOJ”), counsel to CRA in this matter, has hired Precision Economics, LLC to critically evaluate the ROLPH REPORT, using my (Brian Becker’s) experience as a financial/valuation/transfer pricing economist. In particular, I have been asked to comment on three issues from the ROLPH REPORT’s alternative scenarios analysis: (a) the

<sup>5</sup> Additionally, it is my understanding that the CRA has opined that BB CANADA was not entitled to a foreign accrual tax (“FAT”) deduction to counteract the inclusion of the FAPI. BlackBerry Limited v. His Majesty the King. (August 24, 2023). “Amended Reply to the Notice of Appeal.” Tax Court File No. 2019-1378(IT)G, pp. 9-10.

<sup>6</sup> Rolph, Brad. (July 24, 2023). “Expert Report of Brad Rolph.” 2019-1378(IT)G.

<sup>7</sup> Rolph, Brad. (July 24, 2023). “Expert Report of Brad Rolph.” 2019-1378(IT)G, ¶ 20.

<sup>8</sup> Rolph, Brad. (July 24, 2023). “Expert Report of Brad Rolph.” 2019-1378(IT)G, ¶¶ 11-12.

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relevance of potential lower tax payments under alternative structures as “proof” of appropriate tax payments/non-FAPI classifications; (b) the assumptions made in Mr. Rolph’s calculations in his four scenarios; and (c) Mr. Rolph’s opinion that the scenarios don’t trigger a FAPI inclusion. This report completes that assignment with opinions that are contemporaneous with the date on the cover page. I have been compensated at the rate of \$950 (USD) per hour.<sup>9</sup>

### **B. Materials Relied Upon**

In preparing this report, I relied upon a number of documents supplied by the CRA as well as publicly available documents. Some of the documents relied upon are listed below:<sup>10</sup>

- Rolph, Brad. (July 24, 2023). “Expert Report of Brad Rolph.”;
- BlackBerry Limited v. His Majesty the King. (August 24, 2023). “Amended Reply to the Notice of Appeal.” Tax Court File No. 2019-1378(IT)G.; and
- Blackberry Limited v. His Majesty the King. (August 1, 2023). "Amended Notice of Appeal." Tax Court File No. 2019-1378(IT)G.

### **C. Qualifications**

My name is Brian C. Becker. I am the founder and President of Precision Economics. A copy of my current curriculum vitae, which includes a complete listing of my publications, teaching experience, and expert testimony, is attached to this report as Appendix A.

I have been employed as a consulting and expert witness economist for 31 years. Prior to founding Precision Economics in 2001, I gained experience while employed by several consulting firms. My primary areas of focus in these positions have been transfer pricing, business valuation, international trade, intellectual property, and financial damages. During this time, I have testified in approximately 60 depositions and 60 trials.

In the transfer pricing area, I have been engaged as an expert witness on behalf of taxpayers as well as tax authorities in Australia, Canada, New Zealand, New York State, Papua New Guinea, and the United States. In total, this includes more than 500 economic valuation reports. I have testified in 11 transfer pricing trials, including those involving Chevron, Coca-Cola, General Electric, McKesson, Medtronic, Roche, and SNF.

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<sup>9</sup> Employees and contractors have assisted with this report under my direction.

<sup>10</sup> Appendix B contains a complete listing of the documents I relied upon in these analyses.



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My academic background includes teaching positions and a number of publications. Specifically, I taught Corporate Finance, Derivative Securities, Statistics, and Operations Management at Johns Hopkins University, Marymount University, and George Washington University. Most of my publications have been within the transfer pricing and valuation area, in books and journals, including: *Tax Management Transfer Pricing Report*, *Corporate Business Taxation Monthly*, *Business Valuation Review*, and Transfer Pricing Handbook.

I received my Ph.D. in Applied Economics from the Wharton School of the University of Pennsylvania. I received my B.A. as a double major in Applied Mathematics and Economics from Johns Hopkins University.

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### II. Summary of the ROLPH REPORT

#### A. Context and Assignment

The ROLPH REPORT devises four hypothetical structures for BB CANADA. They differ somewhat, but all follow the characteristics below:

- The ROLPH REPORT (Mr. Rolph) opines that none of these four structures would trigger a FAPI inclusion for BB CANADA.<sup>11</sup>
- They require movement of intellectual property ownership and/or research and development personnel from or to BB CANADA.<sup>12</sup>
- The ROLPH REPORT estimates/opines some changes in revenues and costs.<sup>13</sup>
- The ROLPH REPORT offers no valuations of the arm's length price that would be paid to or by BB CANADA for the intellectual property to be transferred in any of the scenarios. That is, the ROLPH REPORT analyzes the scenarios financially as if the intellectual property transfer was priced at *zero*. See **Table 5** below.

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<sup>11</sup> Rolph, Brad. (24 July 2023). "Expert Report of Brad Rolph." 2019-1378(IT)G, p. 5.

<sup>12</sup> Rolph, Brad. (24 July 2023). "Expert Report of Brad Rolph." 2019-1378(IT)G, pp. 11, 19, 27, 37.

<sup>13</sup> Rolph, Brad. (24 July 2023). "Expert Report of Brad Rolph." 2019-1378(IT)G, pp. 13, 20, 29, 39.

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**Table 5: Intellectual Property Transfers Not Quantified in ROLPH REPORT**

<b>Proposed Alternative</b>	<b>Transfer of Intellectual Property</b>	<b>Value Quantified by the ROLPH REPORT</b>
1	(U.S. Owned) <i>BB USA to BB CANADA</i>	Not Quantified/Applied as Zero
2	None	N/A
3	(Canada-Owned, U.S. Share of Worldwide Sales) <i>BB CANADA to BB USA</i>	Not Quantified/Applied as Zero
4	<i>BB CANADA to BB IRELAND</i>	Not Quantified/Applied as Zero

- The ROLPH REPORT offers no financial analysis to support the assumption that all requested R&D personnel would move from (for example) Palo Alto, California to Waterloo, Ontario at the same cost to BlackBerry. That is, the ROLPH REPORT analyzes the scenarios financially as if the personnel shift would be *costless* with *full compliance*. See **Table 6** below.

**Table 6: Personnel Transfers Not Quantified in ROLPH REPORT**

<b>Proposed Alternative</b>	<b>Transfer of Personnel</b>	<b>Value Quantified by the ROLPH REPORT</b>
1	All R&D <i>BB USA to BB CANADA</i>	Not Quantified/Applied as Costless with Full Compliance
2	Some R&D <i>BB USA to BB CANADA</i>	Not Quantified/Applied as Costless with Full Compliance
3	None	N/A
4	None	N/A

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### III. Critical Analysis of the ROLPH REPORT's Alternative Transfer Pricing Structures

#### A. Relevance of Lower Tax Payments Under Other Hypothetical Structures

The ROLPH REPORT suggests that if a company can show that it would have paid lower taxes under a different structure, this implies that its current structure pays enough taxes and is not subject to FAPI. That is, if (presumably) non-FAPI structures yield lower taxes, then the current structure is enhancing the Canadian tax base and should not be subject to FAPI.<sup>14</sup>

This legal/tax opinion offered in the ROLPH REPORT, however, is not economic. Rather, whether a company can avoid FAPI by showing/devising *other* hypothetical alternatives is (presumably) dependent on the FAPI *rules*, as opposed to this type of analysis. As a transfer pricing economist, I offer no opinion on the interpretation of FAPI or tax rules. More generally, I have not seen this logic—that other structures yielding lower taxes is a form of proof that appropriate taxes have been paid (or that there would be no FAPI inclusion)—previously presented in an economic report. In that sense, it is difficult to understand why such legal/tax topics are the subject of an economic expert report.<sup>15</sup>

While I can offer no interpretation of the FAPI rules, I can confirm the ROLPH REPORT has *not* proven either of its two premises that these other scenarios result in: (a) lower taxes; and (b) no FAPI inclusions. As noted below, the ROLPH REPORT misses the key elements in its incomplete valuation/tax analysis while offering nothing beyond Mr. Rolph's opinion as an economist regarding the tax law trigger of FAPI inclusion.

#### B. ROLPH REPORT's Incomplete Valuation/Tax Analysis Misses the Most Important/Driving Factors in Each Scenario

The ROLPH REPORT has failed to show that its other scenarios would lead to lower taxes. In fact, the ROLPH REPORT has not attempted to quantify the largest valuation issues present in these four alternative scenarios.

As seen in **Table 5**, Mr. Rolph creates structures that transfer intellectual property in three of his scenarios. However, in all cases, the ROLPH REPORT fails to quantify these transfers when computing taxes. That is, effectively and mathematically, these transfers are assumed to be at a price of *zero*.

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<sup>14</sup> Rolph, Brad. (July 24, 2023). "Expert Report of Brad Rolph." 2019-1378(IT)G, pp. 8-9.

<sup>15</sup> Rolph, Brad. (July 24, 2023). "Expert Report of Brad Rolph." 2019-1378(IT)G, p. 6.

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While economists can and often do make assumptions in their analyses, it is commonly understood that such assumptions would: (a) be otherwise proven in court through other witnesses/documents; or (b) pass a test of reasonableness. Mr. Rolph’s assumption/application of zero-priced intellectual property transfers do not satisfy either of these criteria.

The ROLPH REPORT provides no reference to—nor indication of—any other witnesses or documents quantifying the intellectual property prices noted in **Tables 5** as having zero value. Implicitly assuming and applying zero values for the transfers noted above is not reasonable. For example, the transfer of the bulk of BlackBerry’s intellectual property to Ireland (scenario 4) would be worth far more than zero. As seen in **Table 3**, BlackBerry’s intellectual property was worth at least \$32 billion between 2008 and 2010.<sup>16</sup> BB CANADA would expect to receive a significant payment to induce it to transfer some of such intellectual property.<sup>17</sup>

I have not performed any tax calculations, but the incremental taxes associated with receiving tens of billions of dollars would likely be significant. More important than the ultimate value is the concept that such a significant intercompany transfer could not be ignored/applied as zero to attempt to show a premise.

The ROLPH REPORT has also not addressed this “elephant in the room” of the value of transferred intellectual property in scenarios 1 and 3. While the alternative prices would be different for transferring some—as opposed to *all*—intellectual property in different “directions,” ignoring this price means that the ROLPH REPORT is not actually/fully comparing the actual world with these hypothetical alternative worlds that it has proposed.<sup>18</sup> Put more specifically, these transfers in **Table 5** are not minor issues that can be approximated by a zero value. They are key elements of the BlackBerry business. See **Table 3**.

To be complete, the ROLPH REPORT addresses the intellectual property transfers by stating that Mr. Rolph believes the intellectual property would have been transferred before 2010 when values might have been lower. However, the ROLPH REPORT does not define such a date nor how that would have impacted BB CANADA or the business in general over the intervening

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<sup>16</sup> This report is not providing any affirmative values of the intellectual property, or otherwise. These figures derive from a market type of intellectual property valuation. World Intellectual Property Organization. (Undated). “Module 11 – IP Valuation,” pp. 19-22.

<sup>17</sup> The ROLPH REPORT’s vague suggestion that BlackBerry might somehow transfer such intellectual property earlier is at best incomplete. That is, it is difficult to analyze the hypothetical if the ROLPH REPORT does not clearly define when, how, and why such intellectual property moved in this scenario.

<sup>18</sup> To be complete, it is also not clear that the ROLPH REPORT correctly priced and thoroughly identified all of the other required changes in his calculations (transfer prices, etc.).

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years. That is, this is the ROLPH REPORT’s hypothetical scenario, and it is admitted created in an incomplete fashion.

The ROLPH REPORT also makes certain assumptions about the transfer of R&D personnel from BB USA to BB CANADA in scenarios 1 and 2. See **Table 6**. Mr. Rolph implicitly assumes/applies a model where *all* of the required/relevant R&D personnel in his scenarios would agree to relocate (for example) from Palo Alto, California to Waterloo, Ontario—despite differences in weather, citizenship, and other factors.<sup>19</sup> In addition, Mr. Rolph opines that BB CANADA would incur the exact same costs as BB USA did related to this transferred research and development.<sup>20</sup> Mr. Rolph notes that his analysis has “not considered” the financial costs BB CANADA would incur from moving this staff, severance costs BB USA may have incurred to pay workers who did not want to relocate, nor the “potentially adverse financial impact” BlackBerry may have faced because its most skilled personnel did not want to relocate.<sup>21</sup> While Mr. Rolph admits to most of the factors he failed to consider, Mr. Rolph chose not to mention that these factors relate to the key activities of BlackBerry. That is, it is not clear why the ROLPH REPORT would choose to create hypothetical scenarios like this where Mr. Rolph admittedly could not quantify the key inputs.

### C. Definition of Non-FAPI Triggers

Beyond the overall logic of its analysis and the missing “elephants in the room” in its calculations, the ROLPH REPORT premises its assignment on Mr. Rolph’s opinion that none of its four alternatives would trigger a FAPI inclusion.<sup>22</sup> The ROLPH REPORT does not state these conclusions as assumptions. Whether Mr. Rolph makes such conclusions based on his legal interpretations of FAPI is unclear, but the ROLPH REPORT provides no economic basis for these opinions. In that sense, this economic analysis in the ROLPH REPORT has not shown that any of the four scenarios would avoid FAPI inclusion.

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<sup>19</sup> Rolph, Brad. (July 24, 2023). “Expert Report of Brad Rolph.” 2019-1378(IT)G, ¶¶ 22, 30.

<sup>20</sup> Rolph, Brad. (July 24, 2023). “Expert Report of Brad Rolph.” 2019-1378(IT)G, ¶¶ 23, 31.

<sup>21</sup> Rolph, Brad. (July 24, 2023). “Expert Report of Brad Rolph.” 2019-1378(IT)G, ¶¶ 29, 37.

<sup>22</sup> Rolph, Brad. (July 24, 2023). “Expert Report of Brad Rolph.” 2019-1378(IT)G, ¶¶ 11.

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**TABLES**

**Table 1:****Income Statements for BlackBerry: FY 2008-2010**

<b>(\$USD Millions) YE February</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>Total</b>	<b>Formula</b>
Total Revenue	\$6,009.4	\$11,065.2	\$14,953.0	\$32,027.6	a
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Amortization	\$108.1	\$194.8	\$310.0	\$612.9	f
Litigation	--	--	\$164.0	\$164.0	g
Impairment of goodwill	--	--	--	\$0.0	h
Total	\$1,349.4	\$2,375.2	\$3,346.0	\$7,070.6	i = sum(d:h)
Operating Profit	\$1,731.2	\$2,722.1	\$3,238.0	\$7,691.3	j = c-i
<b>Operating Margin</b>	<b>28.8%</b>	<b>24.6%</b>	<b>21.7%</b>	<b>24.0%</b>	<b>k = j/a</b>
<b>Pre-R&amp;D Operating Margin</b>	<b>34.8%</b>	<b>30.8%</b>	<b>28.1%</b>	<b>30.3%</b>	<b>l = (j+d)/a</b>

Source:

(1) Research In Motion Ltd. (2 April 2010). Form 40-F for the Fiscal Year Ended February 27, 2010.



**Table 2:**

**Balance Sheets for BlackBerry: FY 2008-2010**

<b>(\$USD Millions) YE February</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Assets</b>			
<b>Current Assets</b>			
Cash and cash equivalents	\$1,184.4	\$835.5	\$1,551.0
Short-term investments	\$420.7	\$682.7	\$361.0
Accounts receivable	\$1,174.7	\$2,112.1	\$2,594.0
Other receivables	\$74.7	\$157.7	\$206.0
Inventory	\$396.3	\$682.4	\$660.0
Income taxes receivable	--	--	--
Other current assets	\$135.8	\$187.3	\$247.0
Deferred income tax asset	\$90.8	\$183.9	\$194.0
Assets held for sale			
<b>Total</b>	<b>\$3,477.4</b>	<b>\$4,841.6</b>	<b>\$5,813.0</b>
Long-term investments	\$738.9	\$720.6	\$958.0
Property, plant and equipment, net	\$706.0	\$1,334.6	\$1,957.0
Goodwill	\$114.5	\$137.6	\$151.0
Intangible assets, net	\$470.0	\$1,066.5	\$1,326.0
Deferred income tax asset	\$4.5	\$0.4	--
<b>Total Assets</b>	<b>\$5,511.2</b>	<b>\$8,101.4</b>	<b>\$10,205.0</b>
<b>Liabilities and Stockholders' Equity</b>			
<b>Current Liabilities</b>			
Accounts payable	\$271.1	\$448.3	\$615.0
Accrued liabilities	\$690.4	\$1,238.6	\$1,638.0
Income taxes payable	\$475.3	\$361.5	\$96.0
Deferred revenue	\$37.2	\$53.8	\$68.0
Deferred income tax liability		\$13.1	\$15.0
Current portion of long-term debt	\$0.3		
<b>Total</b>	<b>\$1,474.4</b>	<b>\$2,115.4</b>	<b>\$2,432.0</b>
Deferred income tax liability	\$65.1	\$87.9	\$141.0
Income taxes payable	\$30.9	\$24.0	\$29.0
Long-term debt note	\$7.3	--	--
<b>Stockholders' Equity</b>			
Preferred stock			
Common stock	\$2,169.9	\$2,208.2	\$2,372.0
Additional paid-in capital	\$80.3	\$119.7	--
Accumulated other comprehensive loss	\$30.3	\$0.5	\$51.0
Retained earnings	\$1,653.1	\$3,545.7	\$5,274.0
Treasury stock			-\$94.0
<b>Total</b>	<b>\$3,933.6</b>	<b>\$5,874.1</b>	<b>\$7,603.0</b>
<b>Total Liabilities and Stockholders' Equity</b>	<b>\$5,511.2</b>	<b>\$8,101.4</b>	<b>\$10,205.0</b>

Sources:

- (1) Research In Motion Ltd. (29 March 2011). Form 40-F for the Fiscal Year Ended February 26, 2011.
- (2) Research In Motion Ltd. (2 April 2010). Form 40-F for the Fiscal Year Ended February 27, 2010.
- (3) Research In Motion Ltd. (7 April 2009). Form 40-F for the Fiscal Year Ended February 28, 2009.

**Table 3:****BlackBerry's Intangible Aseets: FY 2008-2010**

<b>\$USD Billions</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>Formula</b>
Market Capitalization (Fiscal Yearly Average) /1/	\$45.1	\$50.4	\$37.8	a
Book Value of Equity as of Fiscal Year End	\$3.9	\$5.9	\$7.6	b
Intangibles Recorded on Balance Sheet	\$0.5	\$1.1	\$1.3	c
<b>Intangible Assets (Intellectual Property) /2/</b>	<b>\$41.7</b>	<b>\$45.6</b>	<b>\$31.6</b>	<b>d = a-b+c</b>
Intangible Assets as Percent of Market Cap	92.3%	90.5%	83.4%	e = d/a

Notes:

/1/: Yearly market capitalization calculated using Toronto Stock Exchange prices.

Sources:

(1) Retrieved September 15, 2023 from

<https://www.capitaliq.spglobal.com/web/client#company/report?id=4230120&keypage=349840>.

(2) See **Table 2**.

**Table 4:**

**Income Recorded by BB USA for R&D Services Provided to BB CANADA: FY 2010**

<b>(\$USD Millions) YE February 27, 2010</b>	<b>Arizan</b>	<b>Ascendent</b>	<b>Dash</b>	<b>BlackBerry Corporation</b>	<b>Total BB USA</b>
Revenue for R&D Services from BB CANADA	\$0.3	\$16.9	\$6.9	\$206.8	\$230.8
Cost of Services	\$0.3	\$15.6	\$6.4	\$191.5	\$213.7
Net R&D Profit	\$0.0	\$1.2	\$0.5	\$15.3	<b>\$17.1</b>
Markup on Costs	8.0%	8.0%	8.0%	8.0%	8.0%

Source:

(1) 1.Blackberry Limited v. His Majesty the King. (August 1, 2023). "Amended Notice of Appeal." Tax Court File No. 2019-1378(IT)G, p. 4.

**Table 5:**

**Intellectual Property Transfers Not Quantified in ROLPH REPORT**

<b>Proposed Alternative</b>	<b>Transfer of Intellectual Property</b>	<b>Value Quantified by the ROLPH REPORT</b>
<b>1</b>	(U.S. Owned) <i>BB USA to BB CANADA</i>	Not Quantified/Applied as Zero
<b>2</b>	None	N/A
<b>3</b>	(Canada-Owned, U.S. Share of Worldwide Sales) <i>BB CANADA to BB USA</i>	Not Quantified/Applied as Zero
<b>4</b>	<i>BB CANADA to BB IRELAND</i>	Not Quantified/Applied as Zero

Sources:

(1) Rolph, Brad. (24 July 2023). "Expert Report of Brad Rolph." 2019-1378(IT)G, pp. 9-47.

**Table 6:**

**Personnel Transfers Not Quantified in ROLPH REPORT**

<b>Proposed Alternative</b>	<b>Transfer of Personnel</b>	<b>Value Quantified by the ROLPH REPORT</b>
<b>1</b>	All R&D <i>BB USA to BB CANADA</i>	Not Quantified/Applied as Costless with Full Compliance
<b>2</b>	Some R&D <i>BB USA to BB CANADA</i>	Not Quantified/Applied as Costless with Full Compliance
<b>3</b>	None	N/A
<b>4</b>	None	N/A

Sources:

(1) Rolph, Brad. (24 July 2023). "Expert Report of Brad Rolph." 2019-1378(IT)G, pp. 9-47.

**Rebuttal Report of Brian C. Becker, Ph.D.**

**APPENDICES**

**Rebuttal Expert Report of Brian C. Becker, Ph.D.**

**APPENDIX A**



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## **PRESENT POSITION**

PRECISION ECONOMICS, LLC, Washington, DC, (2001-Present)

President

## **PRESENT POSITION**

PRECISION ECONOMICS, LLC, Washington, DC, (2001-Present)

President

## **EDUCATION**

THE WHARTON SCHOOL OF THE UNIVERSITY OF PENNSYLVANIA, Philadelphia, PA

- Ph.D., Applied Economics (1993)

JOHNS HOPKINS UNIVERSITY, Baltimore, MD

- B.A., Applied Mathematics, Economics (1988)

## **EXPERT TESTIMONY, SUBMISSIONS AND HEARINGS**

1. “Rebuttal Expert Report of Brian C. Becker, Ph.D.” Rita Kohari, et al. v MetLife Group, Inc., et al., United States District Court, Southern District of New York, Case No. 1:21-cv-06146, September 22, 2023.
2. “Direct Testimony of Brian C. Becker, Ph.D.” Robert Lauderdale, et al. v. NFP Retirement, Inc., et al., United States District Court, Central District of California, Case No. 8:21-cv-301-JVS-KES, March 1, 2023, Supplemental Testimony, August 28, 2023, Trial Testimony, Los Angeles, CA, September 5, 2023.
3. “Rebuttal Expert Report of Brian C. Becker, Ph.D.” Brian Waldner v. Natixis Investment Managers, L.P., et al., United States District Court, District of Massachusetts, Case No. 1:21-cv-10273-LTS, July 17, 2023 (Corrected July 19, 2023), Deposition Testimony (Virtual), August 21, 2023.
4. “Damages Expert Report of Brian C. Becker, Ph.D.” Brian Waldner v. Natixis Investment Managers, L.P., et al., United States District Court, District of Massachusetts, Case No. 1:21-cv-10273-LTS, May 26, 2023 (Corrected July 19, 2023), Deposition Testimony (Virtual), August 21, 2023.
5. “Damages Expert Report of Brian C. Becker, Ph.D.” Rita Kohari, et al. v MetLife Group, Inc., et al., United States District Court, Southern District of New York, Case No. 1:21-cv-06146, July 13, 2023.
6. “Rebuttal Expert Report of Brian C. Becker, Ph.D.” Michelle Mills, et al. v. Molina Healthcare, Inc., et al., United States District Court, Central District of California, Case No. 2:22-cv-01813-SB-GJS, May 22, 2023, Deposition Testimony (Virtual), May 30, 2023.
7. “Damages Expert Report of Brian C. Becker, Ph.D.” Michelle Mills, et al. v. Molina Healthcare, Inc., et al., United States District Court, Central District of California, Case No. 2:22-cv-01813-SB-GJS, April 24, 2023, Deposition Testimony (Virtual), May 30, 2023.





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8. "Supplemental Expert Report of Brian C. Becker, Ph.D." Robert Lauderdale, et al. v. NFP Retirement, Inc., et al., United States District Court, Central District of California, Case No. 21-cv-00301-KES, February 17, 2023, Trial Testimony, Los Angeles, CA, September 5, 2023.
9. "Rebuttal Expert Report of Brian C. Becker, Ph.D." In the Matter of Arbitration Between XOMA (US), LLC, Claimant, and MORPHOSYS AG, Respondent, American Arbitration Association, September 7, 2022, Direct, Cross-Examination, and "Hot Tub" Trial Testimony, New York, NY, November 10, 2022.
10. "VIMA/VIO Expert Damages Report of Dr. Brian C. Becker," Symbion Energy Holdings, Ltd. et al. v. Alpha Innovations Management, Ltd. et al., ICDR Case No. 01-20-0000-4822, June 15, 2022.
11. "Damages Expert Report of Brian C. Becker, Ph.D." Robert Lauderdale, et al. v. NFP Retirement, Inc., et al., United States District Court, Central District of California, Case No. 21-cv-00301-KES, June 1, 2022, Deposition Testimony (Virtual), July 12, 2022, Trial Testimony, Los Angeles, CA, September 5, 2023.
12. "Damages Expert Report of Brian C. Becker, Ph.D." Jeffrey McGinnes, et al. v. FirstGroup America, Inc., et al., United States District Court, Southern District of Ohio, Case No. 1:18-cv-00326-TSB, May 13, 2022, Deposition Testimony, Washington, D.C. (Virtual), August 30, 2022.
13. "Expert Damages Report of Brian C., Becker, Ph.D.," In the Matter of an Arbitration Between XOMA (US), LLC, Claimant, and MORPHOSYS AG, Respondent, American Arbitration Association, May 11, 2022, Direct, Cross-Examination, and "Hot Tub" Testimony, New York, NY, November 10, 2022.
14. "Damages Expert Report of Brian C. Becker, Ph.D." American Freight, LLC v. Gavin Gosik, Karl Finley, and Ethan MacManus, JAMS Arbitration, Ref. No. 1345001791, December 30, 2021, Trial Testimony (Virtual), March 1, 2022.
15. "Supplemental Expert Report of Brian C. Becker, Ph.D." Leonid Falberg v. The Goldman Sachs Group, Inc., et al., United States District Court, Southern District of New York, Case No. 1:19-cv-00910-ER, February 24, 2022.
16. "Preliminary Expert Report of Brian C. Becker, Ph.D." Jeffrey McGinnes, et al. v. FirstGroup America, Inc., et al., United States District Court, Southern District of Ohio, Case No. 1:18-cv-00326-TSB, February 10, 2022.
17. "Rebuttal Expert Report of Brian C. Becker, Ph.D." Leonid Falberg v. The Goldman Sachs Group, Inc., et al., United States District Court, Southern District of New York, Case No. 1:19-cv-00910-ER, November 30, 2021, Deposition Testimony, New York, NY (Virtual), January 10, 2022.
18. "Rebuttal Expert Report of Brian C. Becker, Ph.D." Western Digital Corporation, et al. v. Commissioner of Internal Revenue, United States Tax Court, Docket Nos. 18984-18, 4818-19, January 7, 2022.
19. "Damages Expert Report of Brian C. Becker, PhD.," Leonid Falberg v. The Goldman Sachs Group, Inc., et al., United States District Court, Southern District of New York, Case No. 1:19-cv-00910-ER, September 7, 2021.
20. "Rebuttal Expert Report of Brian C. Becker, Ph.D.," Kimberly Davis, et al. v. Stadion Money Management, LLC, et al., United States District Court, District of Nebraska, Case No. 8:19-



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- cv-00556-JFB-CRZ, June 14, 2021, Deposition Testimony, Los Angeles, CA (Virtual), August 18, 2021.
21. “Damages Expert Report of Brian C. Becker, Ph.D.,” Kimberly Davis, et al. v. Stadion Money Management, LLC, et al., United States District Court, District of Nebraska, Case No. 8:19-cv-00556-JFB-CRZ, April 14, 2021, Deposition Testimony, Los Angeles, CA (Virtual), August 18, 2021.
  22. “Expert Report of Brian C. Becker, Ph.D. Pursuant to Fed.R.Civ.P. Rule 26(a)(2)(B),” United States of America, et al., ex rel. Ronald J. Streck v. Takeda Pharmaceuticals America, Inc., et al., United States District Court, Northern District of Illinois, Eastern Division, Case No. 1:14-cv-09412, May 21, 2021, Deposition Testimony, Washington, DC (Virtual), July 23, 2021.
  23. “Rebuttal Report of Brian C. Becker, Ph.D.,” The Douglas Stewart Company, Inc. v. HiQo Solutions, Inc., United States District Court, Southern District of Georgia, Case No. 4:20-cv-00101-WTM-CLR, February 1, 2021. Deposition Testimony, Atlanta, GA (Virtual) July 8, 2021.
  24. “Rebuttal Expert Report of Brian C. Becker, Ph.D.,” Benjamin Reetz v. Lowe’s Companies Inc., John and Jane Does, Administrative Committee of Lowe’s Companies, Inc., and Aon Hewitt Investment Consulting, Inc., United States District Court, Western District of North Carolina, Case No. 5:18-cv-00075-KDB-DCK, September 24, 2020, Deposition Testimony, Washington, DC (Virtual), November 13, 2020, Trial Testimony, Charlotte, NC, June 30, 2021.
  25. “Damages Expert Report of Brian C. Becker, Ph.D.,” Benjamin Reetz v. Lowe’s Companies, Inc., John and Jane Does, Administrative Committee of Lowe’s Companies, Inc., and Aon Hewitt Investment Consulting, Inc., United States District Court, Western District of North Carolina, Case No. 5:18-cv-00075-KDB-DCK, August 27, 2020, Deposition Testimony, Washington, DC (Virtual), November 13, 2020, Trial Testimony, Charlotte, NC, June 30, 2021.
  26. “Rebuttal of Medtronic’s December 2019 Reports by Glenn Hubbard, Jonathan Putnam, and Chris Spadea,” Medtronic, Inc. & Consolidated Subsidiaries, Petitioner, v. Commissioner of Internal Revenue, Respondent, United States Tax Court, Docket No. 6944-11, January 27, 2020, Deposition Testimony, Washington, DC, February 14, 2020, Testimony, Chicago, IL (Virtual), June 24, 2021.
  27. “Damages Expert Report of Brian C. Becker, Ph.D.,” In the Matter of Arbitration between The Cleveland Clinic Foundation, Petitioner & Counter-Respondent, and TransWorld Medical Devices, LLC, and Cleveland Heart, Inc., Respondents & Counterclaimants, American Arbitration Association, Case No. 01-19-0001-4710, March 2, 2020, Trial Testimony, Cleveland, OH, June 16, 2021.
  28. “Analysis of the Benefits and Costs for Methanex Titan (Trinidad) Unlimited’s Payments of PMP Costs Under the GMLA Program,” Methanex Trinidad (Titan) Unlimited v. The Board of Inland Revenue, Republic of Trinidad and Tobago Tax Appeal Board, Appeal Nos. I 10-I 11 of 2017, June 4, 2021.
  29. “Reply Declaration for Purposes of Class Certification of Brian C. Becker, Ph.D.,” Kimberly Davis, et al. v. Stadion Money Management, LLC, et al., United States District Court, District of Nebraska, Case No. 8:19-cv-00556-JFB-CRZ, March 10, 2021.



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30. United States International Trade Commission. “Standard Steel Welded Wire Mesh from Mexico.” Investigation Nos. 701-TA-653 and 731-TA-1527 (Final), Hearing Testimony, Washington, DC (Virtual), February 12, 2021.
31. United States International Trade Commission. “Corrosion Inhibitors from China.” Investigation Nos. 701-TA-638 and 731-TA-1473 (Final), Hearing Testimony, Washington, DC (Virtual), January 21, 2021.
32. “Sur-Rebuttal Report of Brian C. Becker, Ph.D.,” In the Matter of Arbitration between Monsoon Blockchain Storage, Inc., Claimant, and Magic Micro Co. Ltd., Respondent, American Arbitration Association, Case No. 01-19-0002-4620, November 12, 2020, Hearing Testimony, Washington, DC (Virtual), December 10, 2020.
33. “Critical Analysis of Monsoon Damages Estimate,” In the Matter of Arbitration between Monsoon Blockchain Storage, Inc., Claimant, and Magic Micro Co. Ltd., Respondent, American Arbitration Association, Case No. 01-19-0002-4620, October 1, 2020, Hearing Testimony, Washington, DC (Virtual), December 10, 2020.
34. “Preliminary Expert Report for Purposes of Class Certification of Brian C. Becker, Ph.D.,” Kimberly Davis, et al. v. Stadion Money Management, LLC, et al., United States District Court, District of Nebraska, Case No. 8:19-cv-00556-JFB-CRZ, November 23, 2020.
35. “Reply Report in Answer to First Report of Mahesh K. Kotecha, CFA,” In the Matter of Arbitration Under the UNCITRAL Arbitration Rules 1976 between Kansanshi Holdings Ltd., Claimant, and ZCCM Investment Holdings, Respondent, and Kansanshi Mining PLC, Nominal Respondent, August 7, 2020, Trial Testimony, London, UK (Virtual), October 21-22, 2020.
36. “Economic Analysis of Intercompany Transactions from Kansanshi Mining PLC to FQM Finance Ltd.,” In the Matter of Arbitration Under the UNCITRAL Arbitration Rules 1976 between Kansanshi Holdings Ltd., Claimant, and ZCCM Investment Holdings, Respondent, and Kansanshi Mining PLC, Nominal Respondent, March 13, 2020, Trial Testimony, London, UK (Virtual), October 21-22, 2020.
37. “Damages Expert Report of Brian C. Becker, Ph.D.,” St. Paul’s Foundation and Shrine of Saint Nicholas the Wonderworker, Patron of Sailors, Brewers and Repentant Thieves, Plaintiffs v. Richard Baldacci, in his official capacity as Building Commissioner for the Town of Marblehead, and the Town of Marblehead, Defendants, United States District Court, District of Massachusetts, Case No. 1:19-cv-11504-DJC, October 5, 2020.
38. “Rebuttal Expert Report of Brian C. Becker, Ph.D.,” Patrick Myles, Plaintiff, v. the Johns Hopkins University Applied Physics Laboratory, Defendant, United States District Court, District of Maryland (Greenbelt Division), Case No. 8:18-cv-03180-PJM, October 3, 2019.
39. “Expert Rebuttal Report of Brian C. Becker, Ph.D. Pursuant to Fed.R.Civ.P. Rule 26(a)(2)(B),” United States of America, et al., ex rel. Ronald J. Streck v. Bristol-Myers Squibb Company, United States District Court, Eastern District of Pennsylvania, Case No. 2:13-cv-07547-TJS, September 5, 2019, Deposition Testimony, Washington, DC, September 20, 2019.
40. “Expert Report of Brian C. Becker, Ph.D. Pursuant to Fed.R.Civ.P. Rule 26(a)(2)(B),” United States of America, et al., ex rel. Ronald J. Streck v. Bristol-Myers Squibb Company, United States District Court, Eastern District of Pennsylvania, Case No. 2:13-cv-07547-TJS, August 16, 2019, Deposition Testimony, Washington, DC, September 20, 2019.



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41. "Second Supplement to Damages Expert Report of Brian C. Becker, Ph.D.," James E. Bennett, Jr. et al vs. Roy J. Moore et al, District Court, 150th Judicial District, Bexar County, Texas, Cause No. 2017CI05787, March 27, 2019, Trial Testimony, San Antonio TX, April 5, 2019.
42. "Supplement to Damages Expert Report of Brian C. Becker, Ph.D.," James E. Bennett, Jr. et al vs. Roy J. Moore et al, District Court, 150th Judicial District, Bexar County, Texas, Cause No. 2017CI05787, March 6, 2019, Trial Testimony, San Antonio TX, April 5, 2019.
43. "Affidavit of Brian C. Becker, Ph.D.," James E. Bennett, Jr. et al vs. Roy J. Moore et al, District Court, 150th Judicial District, Bexar County, Texas, Cause No. 2017CI05787, February 22, 2019, Trial Testimony, San Antonio TX, April 5, 2019.
44. "Damages Expert Report of Brian C. Becker, Ph.D.," James E. Bennett, Jr. et al vs. Roy J. Moore et al, District Court, 150th Judicial District, Bexar County, Texas, Cause No. 2017CI05787, January 4, 2019, Deposition Testimony, Washington, DC, January 24, 2019, Trial Testimony, San Antonio TX, April 5, 2019.
45. "Affidavit of Brian C. Becker, Ph.D.," James E. Bennett, Jr. et al vs. Roy J. Moore et al, Superior Court, Columbus County, North Carolina, Division No. 15 CVS 1316, February 22, 2019.
46. "Rebuttal Analysis of Expert Report of Dr. Sanjay Unni Dated August 4, 2015," Canadian Imperial Bank of Commerce, Appellant v. Her Majesty the Queen, Tax Court of Canada, 2010-1413(IT)G/2010-1414(IT)G/2010-2864(IT)G/2013-4005(IT)G, Updated as of November 14, 2018.
47. "Rebuttal Expert Report of Brian C. Becker, Ph.D.," The Coca-Cola Company and Subsidiaries, Petitioner, v. Commissioner of Internal Revenue, Respondent, United States Tax Court, Washington, DC, Docket No. 31183-15, September 29, 2017, Deposition Testimony, Washington, DC, November 29, 2017, Trial Testimony, Washington, DC, April 24, 2018.
48. "Expert Report of Brian C. Becker, Ph.D.," The Coca-Cola Company and Subsidiaries, Petitioner, v. Commissioner of Internal Revenue, Respondent, United States Tax Court, Washington, DC, Docket No. 31183-15, June 28, 2017, Deposition Testimony, Washington, DC, November 29, 2017, Trial Testimony, Washington, DC, April 24, 2018.
49. "Rebuttal Expert Report of Brian C. Becker, Ph.D.," Exxon Mobil Corporation, Plaintiff v. NorthWestern Corporation dba NorthWestern Energy, Defendant, Case No. 1:16-cv-00005-SPW-CSO, United States District Court for the District of Montana (Billings Division), September 22, 2017, Deposition Testimony, Houston, Texas, October 5, 2017.
50. "Damages Expert Report of Brian C. Becker, Ph.D.," Exxon Mobil Corporation, Plaintiff v. NorthWestern Corporation dba NorthWestern Energy, Defendant, Case No. 1:16-cv-00005-SPW-CSO, United States District Court for the District of Montana (Billings Division), July 28, 2017, September 22, 2017, Deposition Testimony, Houston, Texas, October 5, 2017.
51. "Supplemental Expert Report of Brian C. Becker," Lisa A. Abraham, Lisa Cave, Scott Cave, Lee Ann Kaminski, and Mark E. Kaminski, Plaintiffs v. Ocwen Loan Servicing, Inc.,



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- Defendant, United States District Court, Eastern District of Pennsylvania, Case No. 5:14-cv-04977-JP, September 6, 2017.
52. "Critical Analysis of the March 3, 2017 Expert Report of William O. Kerr, Ph.D. and Calculation of Damages Under AIS's Counterclaim," LISCR, LLC Claimant v. Applied Information Sciences, Inc., Respondent, The American Arbitration Association, Case No. 01-15-0005-7786-1-JB, April 17, 2017, Trial Testimony, Washington, DC, August 8, 2017.
  53. "Damages Expert Report of Brian C. Becker, Ph.D.," Sean McEnroe, Plaintiff v. Mantissa Corporation, Defendant, Civil Action No. 14-cv-12320, United States District Court for the District of Massachusetts, October 27, 2016.
  54. "Reply Class Certification Report of Brian C. Becker," Lisa A. Abraham, Lisa Cave, Scott Cave, Lee Ann Kaminski, and Mark E. Kaminski, Plaintiffs v. Ocwen Loan Servicing, Inc., Defendant, United States District Court, Eastern District of Pennsylvania, Case No. 5:14-cv-04977-JP, February 12, 2016, Deposition Testimony, Washington, DC, July 20, 2016.
  55. "Class Certification Report of Brian C. Becker," Lisa A. Abraham, Lisa Cave, Scott Cave, Lee Ann Kaminski, and Mark E. Kaminski, Plaintiffs v. Ocwen Loan Servicing, Inc., Defendant, United States District Court, Eastern District of Pennsylvania, Case No. 5:14-cv-04977-JP, December 21, 2015, Deposition Testimony, Washington, DC, July 20, 2016.
  56. "Critical Analysis of Comments in Reports by Daniel Broadhurst, Ron Johnson, Irving Plotkin, and David West Regarding Choices and Applications of Transfer Pricing Valuations in Audit Reports of Brian C. Becker," Guidant LLC et al., Petitioners, v. Commissioner of Internal Revenue, Respondent, United States Tax Court, Washington, DC, Docket Nos. 5989-11, 5990-11, 10985-11, 26876-11, 5501-12, 5502-12, June 20, 2016.
  57. "Critical Analysis of the May 2, 2016 Expert Reports of Clark Chandler and Michael Cragg: Guidant LLC v. Commissioner of Internal Revenue," Guidant LLC et al., Petitioners, v. Commissioner of Internal Revenue, Respondent, United States Tax Court, Washington, DC, Docket Nos. 5989-11, 5990-11, 10985-11, 26876-11, 5501-12, 5502-12, June 20, 2016.
  58. "Economic Analysis of the Intercompany Prices Between Guidant (and Successor) Related Entities: 2001-2007," Guidant LLC et al., Petitioners, v. Commissioner of Internal Revenue, Respondent, United States Tax Court, Washington, DC, Docket Nos. 5989-11, 5990-11, 10985-11, 26876-11, 5501-12, 5502-12, May 2, 2016.
  59. "Impact of Different Transfer Prices on Guidant's Valuation of Assets Transferred from Its Section 936 Possessions Corporation to Puerto Rico Successor Company as of May 14, 1999," Guidant LLC et al., Petitioners, v. Commissioner of Internal Revenue, Respondent, United States Tax Court, Washington, DC, Docket Nos. 5989-11, 5990-11, 10985-11, 26876-11, 5501-12, 5502-12, May 2, 2016.
  60. "Valuation of Intangible Irish Assets Transferred to Abbott Laboratories, Inc. as of April 21, 2006 and Explanation of Impact of Changing Transfer Prices," Guidant LLC et al., Petitioners, v. Commissioner of Internal Revenue, Respondent, United States Tax Court,



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Washington, DC, Docket Nos. 5989-11, 5990-11, 10985-11, 26876-11, 5501-12, 5502-12, May 2, 2016.

61. "Expert Report of Brian C. Becker," Forest Laboratories, Inc. et al., Plaintiffs v. Teva Pharmaceuticals USA, Inc. et al., Defendants, In The United States District Court for the District of Delaware, Case 1:14-cv-00121-LPS; 1:14-cv-00686-LPS, December 18, 2015.
62. "Rebuttal Analysis of Expert Report of Dr. Sanjay Unni Dated August 4, 2015," Canadian Imperial Bank of Commerce, Appellant v. Her Majesty the Queen, Tax Court of Canada, 2010-1413(IT)G/2010-1414(IT)G/2010-2864(IT)G/2013-4005(IT)G, September 18, 2015.
63. "Rebuttal Analysis of W. Todd Schoettelkotte Report Dated May 18, 2015," Afilias, PLC, Plaintiff v. Architelos, Inc. and Alexa Raad, Defendants, Case No. 1.15-CV-14, Before the United States District Court, Eastern District of Virginia (Alexandria Division), June 3, 2015, Deposition Testimony, Washington, DC, June 5, 2015, Trial Testimony, Alexandria, Virginia, August 19-20, 2015.
64. "Expert Report of Brian C. Becker," Afilias, PLC, Plaintiff v. Architelos, Inc. and Alexa Raad, Defendants, Case No. 1.15-CV-14, Before the United States District Court, Eastern District of Virginia (Alexandria Division), April 27, 2015, Deposition Testimony, Washington, DC, June 5, 2015, Trial Testimony, Alexandria, Virginia, August 19-20, 2015.
65. "Economic Analysis of Dumping of Certain Steel Nails from Korea, Malaysia, Oman, Taiwan, and Vietnam," U.S. International Trade Commission Investigation Nos. 701-TA-516-519 & 521 and 731-TA-1252-1255 & 1257 (Final), Washington, DC, May 6, 2015, Testimony at Hearing, May 14, 2015.
66. "Critical Analysis of Taxpayer's October 2014 Expert Reports: Medtronic, Inc. and Consolidated Subsidiaries v. Commissioner of Internal Revenue," United States Tax Court, Dkt No. 6944-11, December 3, 2014, Trial Testimony, Chicago, Illinois, March 10, 2015.
67. "Expert Report of Brian C. Becker," Darby Latin American Mezzanine Fund, L.P. and El Barranquilla LLC v. PricewaterhouseCoopers LLP, Case No. 2013 CA 006215 B, Before the Superior Court of the District of Columbia, Civil Division, January 22, 2015, Deposition Testimony, Washington, DC, February 19, 2015.
68. "Affidavit of Brian Charles Becker in Support of Notice of Appeal Against Appealable Objection Decision Under Section 14ZZ of the Taxation Administration Act 1953 Affirmed on 28 July 2014," Federal Court of Australia, New South Wales District Registry, Between Chevron Australia Holdings Pty Ltd, Applicant, and The Commissioner of Taxation of the Commonwealth of Australia, Respondent, No. NSD 569 of 2012, No. NSD 151 of 2013, July 28, 2014, Trial Testimony, Sydney, Australia, October 14-16, 2014.
69. "Affidavit of Brian Charles Becker in Support of Notice of Appeal Against Appealable Objection Decision Under Section 14ZZ of the Taxation Administration Act 1953 Affirmed on 10 March 2014," Federal Court of Australia, New South Wales District Registry, Between Chevron Australia Holdings Pty Ltd, Applicant, and The Commissioner of Taxation of the



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- Commonwealth of Australia, Respondent, No. NSD 569 of 2012, No. NSD 151 of 2013, March 10, 2014, Trial Testimony, Sydney, Australia, October 14-16, 2014.
70. "Affidavit of Brian Charles Becker in Support of Notice of Appeal Against Appealable Objection Decision Under Section 14ZZ of the Taxation Administration Act 1953 Affirmed on 6 March 2014," Federal Court of Australia, New South Wales District Registry, Between Chevron Australia Holdings Pty Ltd, Applicant, and The Commissioner of Taxation of the Commonwealth of Australia, Respondent, No. NSD 569 of 2012, No. NSD 151 of 2013, March 6, 2014, Trial Testimony, Sydney, Australia, October 14-16, 2014.
  71. "Affidavit of Brian Charles Becker in Support of Notice of Appeal Against Appealable Objection Decision Under Section 14ZZ of the Taxation Administration Act 1953 Affirmed on 2 August 2013," Federal Court of Australia, New South Wales District Registry, Between Chevron Australia Holdings Pty Ltd, Applicant, and The Commissioner of Taxation of the Commonwealth of Australia, Respondent, No. NSD 569 of 2012, No. NSD 151 of 2013, August 2, 2013, Trial Testimony, Sydney, Australia, October 14-16, 2014.
  72. "Rebuttal Statement of Brian C. Becker," AZSA Holdings Pty Ltd vs. Commissioner of Taxation, Administrative Appeals Tribunal, Taxation Appeals Division, New South Wales District Registry, AAT Proceedings 2010/3229-3232, March 6, 2014.
  73. "Declaration of Brian C. Becker in Support of Ricoh Company, Ltd.'s Motion for Relief from Judgment," United States District Court, Southern District of New York, Case No. 12-CV-3109 (DLC), February 26, 2014.
  74. "Rebuttal Analysis of Expert Report and Videotaped Deposition Testimony of Michael G. Kessler," United States District Court, Southern District of California, Case No. 12-CV-2188-GPC (BGS), February 3, 2014.
  75. "Economic Analysis of Intercompany Transfers Between Altec Lansing, LLC and Altec Lansing, BV: 2010-2012," United States District Court, Southern District of California, Case No. 12-CV-2188-GPC (BGS), December 9, 2013.
  76. "Expert Report in Eastman Kodak Company, Plaintiff v. Ricoh Company, Ltd., Defendant," United States District Court, Southern District of New York, Case No. 12-CV-3109, September 23, 2013 Supplement, October 12, 2013 Second Supplement.
  77. "Economic Analysis of Intercompany Transactions Between DeCoro USA and DeCoro Ltd.: 2004-2007." United States Bankruptcy Court, Middle District of North Carolina In Re: DeCoro USA, Ltd., Debtor, Chapter 11 Bankruptcy Case No. 09-10846, September 11, 2012, Deposition Testimony, Washington, DC, November 2, 2012, Trial Testimony, Greensboro, NC, September 24, 2013.
  78. "Expert Report in Eastman Kodak Company, Plaintiff v. Ricoh Company, Ltd., Defendant," United States District Court, Southern District of New York, Case No. 12-CV-3109, July 8, 2013, Deposition Testimony, Washington, DC, August 8, 2013.



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  93. "Second Statement of Brian C. Becker," Federal Court of Australia, Victoria District Registry, Between SNF (Australia) PTY Limited, Applicant, and The Commissioner of Taxation of the Commonwealth of Australia, Respondent, March 23, 2009, VID 132 of 2008, 2011 ATC 20-265, Trial Testimony, Melbourne, Australia, July 29-30, 2009.
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- 1) [Unpardonable](#), 2019. ISBN 978-1-54399-344-8, eBook 978-1-54399-345-5, Audiobook 978-1-667891163. (Historical fiction).
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- 4) "Projected and Actual Profits' Impact on Licensees," *Tax Management Transfer Pricing Report*, Vol. 17, No. 11, October 9, 2008, pp. 461-466.
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- 20) "The Effects of Inflation on Cross-Country Profit Comparisons," *Tax Management Transfer Pricing Report*, Vol. 7, No. 3, June 3, 1998, pp. 77-82 (with B. Brooks).
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**RECENT PROFESSIONAL SEMINARS**

- 1) "Topics in Transfer Pricing Litigation," Tax Institute of Australia, Sydney, Australia, October 18, 2023 (scheduled).
- 2) "Economic Disputes in Transfer Pricing Litigation," King & Wood Mallesons, Melbourne, Australia, December 5, 2022.
- 3) "Is Whistleblowing Under the Federal False Claims Act Over?" Panelist, *Cut to the Chase* Podcast, Miami, Florida (virtual), October 18, 2022.
- 4) "Using Experts in State Tax Matters," Panelist, ABA Tax Section, 2022 Fall Meeting, Dallas, Texas, October 14, 2022.
- 5) "Recent Transfer Pricing Litigation Around the World," Mayne Wetherell, Auckland, New Zealand (virtual), October 26, 2021.
- 6) "Recent Transfer Pricing Litigation," Johnson Winter & Slattery, Melbourne, Australia (virtual), May 31, 2021.
- 7) "Valuation Disputes," Australian Taxation Office, Melbourne, Australia, March 3, 2020.
- 8) "Valuations of Financial Products, Intangible Assets and Contractual Rights in Transfer Pricing Disputes," Inland Revenue, Auckland, New Zealand, March 2, 2020.



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- 9) "Valuation Disputes in Transfer Pricing Litigation Around the World," Russell McVeigh Tax Seminar Series, Auckland, New Zealand, March 2, 2020.
- 10) "Current Topics in Transfer Pricing," Slaughter and May, London, United Kingdom, June 7, 2019.
- 11) "Transfer Pricing Reporting in 2019: Navigating Challenges and Solutions LIVE Webcast," The Knowledge Group, April 12, 2019.
- 12) "Litigation Disputes in Transfer Pricing," Guest Lecturer at George Washington University Law School, Washington, DC, March 21, 2019.

**PROFESSIONAL EXPERIENCE**

CRITERION FINANCE, L.L.C., Washington, DC, (2001-2001)  
Senior Vice President

LECG, LLC, Washington, DC, (1999-2001)  
Senior Managing Economist, Managing Economist

ECONOMIC CONSULTING SERVICES INC., Washington, DC, (1995-1999)  
Senior Economist, Economist

ARTHUR ANDERSEN, L.L.P., Washington, DC, (1994-1995)  
Manager

DELOITTE & TOUCHE, Washington, DC, (1992-1994)  
Senior Consultant

**TEACHING EXPERIENCE**

JOHNS HOPKINS UNIVERSITY, Washington, DC, (1997-2002)  
Visiting Professor (Corporate Finance, Derivative Securities)

MARYMOUNT UNIVERSITY, Arlington, VA, (1993-1995)  
Visiting Professor (Statistics)

GEORGE WASHINGTON UNIVERSITY, Washington, DC, (1992-1993)  
Visiting Professor (Production and Operations Management)

September 2023



**Rebuttal Expert Report of Brian C. Becker, Ph.D.**

**APPENDIX B**

## **Rebuttal Expert Report of Brian C. Becker, Ph.D.**

### **Appendix B: List of Documents Relied Upon**

#### *Case Documents*

1. Blackberry Limited v. His Majesty the King. (August 1, 2023). "Amended Notice of Appeal." Tax Court File No. 2019-1378(IT)G.
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**Rebuttal Expert Report of Brian C. Becker, Ph.D.**

**APPENDIX C**

**2019-1378(IT)G**

**TAX COURT OF CANADA**

BETWEEN:

**BLACKBERRY LIMITED,**

Appellant

and

**HIS MAJESTY THE KING**

Respondent

**CERTIFICATE CONCERNING CODE OF CONDUCT FOR EXPERT WITNESSES**

(pursuant to Rule 145(2))

I, Brian Becker, having been named as an expert witness by the respondent, certify that I have read the Code of Conduct for Expert Witnesses set out in Schedule III of the *Tax Court of Canada Rules (General Procedure)* and agree to be bound by it.

**DATED** at Washington, D.C., this 22<sup>nd</sup> day of September 2023.



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