

RENE BEFURT

Principal

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Dr. Befurt is an expert in applying marketing research methods to litigation matters and strategic business problems. He specializes in developing survey experiments and choice modeling approaches in consumer surveys. He has served as an expert witness in survey and sampling matters, and has assisted academic affiliates in survey conceptualization, administration, and evaluation. Dr. Befurt's many clients include the US Department of Justice (DOJ), the US Federal Trade Commission (FTC), the Office of the Attorney General of New York, Microsoft, Oracle, Keurig Dr Pepper, Fiat Chrysler Automobiles, Ford, General Motors, Toyota, the Louisiana Farm Bureau, Cree Lighting, Research In Motion, and Nestlé. He has testified at numerous depositions and trials.

As an expert witness, Dr. Befurt has worked on matters pertaining to patent infringement, trademark disputes, consumer disclosures, product liability, false advertising, brand reputation, and sampling. He has extensive experience developing experimental studies and usage surveys, as well as modeling consumer choice, including conducting and examining conjoint analyses. Dr. Befurt's work also includes the evaluation and application of market research techniques in the finance and automotive manufacturing sectors. He has designed survey instruments, analyzed complex survey data, and created tools to allow clients to understand consumer preferences and market forces through market simulations. Dr. Befurt's experience spans over two decades and includes numerous projects for automobile manufacturers in Europe and the US.

EDUCATION

- 2009 Ph.D., marketing, University of St. Gallen Center for Business Metrics, St. Gallen, Switzerland
Dissertation: "Product Lines and the Conflict between Similarity and Autonomy"
- 2002 Dipl. Kaufmann (*M.B.A. equivalent*), University of Mannheim, Mannheim, Germany
Specialization: Marketing, Marketing Research, International Management
- 1999 M.B.A., Union College
Specialization: Marketing, Market Research

WORK EXPERIENCE

- 2008–Present Analysis Group
Principal (2022–Present)
Vice President (2015–2022)
Manager (2011–2014)
Associate (2008–2010)

2006–2008	MIT Sloan School of Management <i>Visiting Researcher – Marketing Group</i>
2002–2006	University of St. Gallen Center for Business Metrics, Switzerland <i>Research Assistant and Statistics Consultant</i>
2001–2003	University of Cooperative Education, Germany <i>Lecturer, Principles of Marketing</i>

SELECTED EXPERT CASE WORK

- **Brand reputation matter**
Prepared a declaration to examine how a video containing potentially harmful claims may have impacted the brand, reputation, and business opportunities of a locally operated firm in Tennessee. Case settled before deposition.
- **Sampling strategy matter**
Developed a sampling strategy to determine the share of counterfeit products in a warehouse containing shipments of counterfeit and original products. Case settled before reports were filed.
- **Trade secret matter**
Prepared an expert report that examined the consequences of a trade secret breach for a manufacturer's marketing and sales strategies, including estimated damages related to trade secret breach. Case settled before deposition.
- **Consumer disclosure matter**
Prepared two expert reports which rebutted a survey that attempted to measure the value of certain security features in home security systems. Case settled before depositions.
- **Trademark matter**
Prepared an expert report that rebutted a survey aimed at measuring the secondary meaning of a restaurant trademark. Testified in deposition and at trial.
- **Intellectual property matter**
Prepared an expert report rebutting a survey that attempted to measure the value of certain features associated with a productivity software application. Case is ongoing.
- **False advertising matter**
Designed a consumer survey to determine the influence of an allegedly false advertisement on consumers' perceptions and decision making related to a replacement part in a vehicle. Testified in deposition. Case is ongoing.
- **Valuation methodology matter**
Prepared an expert report that examined survey methods to reliably determine the value of a used vehicle. Testified in deposition and at court hearing. Case is ongoing.
- **Trademark matter**
Designed a consumer survey to determine whether or not consumers confuse two allegedly similar sports apparel trademarks. Testified in deposition. Case is ongoing.

- **False advertising matter**
Prepared an expert report rebutting a series of surveys that attempted to determine the understanding, impact, and value of an allegedly false claim on a beverage label. Testified twice in deposition. Case is ongoing.
- **Product liability/lack of disclosure matter**
Prepared an expert report that rebutted a proposed conjoint analysis survey intended to determine consumer valuations of an allegedly improved feature in a vehicle and/or adequate risk disclosures. Testified in deposition. Case is ongoing.
- **Intellectual property matter**
Prepared an expert report that rebutted a survey intended to assess the impact of patented features on consumers' purchases of a product. Testified in deposition. Case settled during trial.

SELECTED CONSULTING EXPERIENCE

- **False advertising matter**
Developed a survey to test whether a soft drink label is confusing to consumers with regard to specific claims and pictures on the label.
- **False advertising matter**
Developed a survey to test whether marketing materials used by a diagnostic testing laboratory are confusing with respect to the test's actual capabilities.
- **False advertising matter**
Developed a survey about cigarettes to evaluate product characteristics and their intrinsic worth to consumers.
- **Trademark matters**
Assisted with the development of rebuttal reports in cases involving forward and/or reverse confusion.
- **Warning label matter**
Assisted with the development of affirmative and rebuttal reports demonstrating the effects of a highly salient warning label on consumers' perceptions and decision making pertaining to soft drinks.
- **Tax dispute**
Prepared an overview of branding strategy to describe motivations for a sporting goods manufacturer and a professional golf player to engage in an endorsement contract.
- **Patent infringement suit**
Developed a survey on smartphone devices to assess the importance of patent-related product features and their impact on market demand.

ARTICLES & PUBLICATIONS

Peer-reviewed publications

- "The Eyes Have It: How a Car's Face Influences Consumer Categorization and Evaluation of Product Line Extensions," with Susan M. Keaveney, Andreas Herrmann, and Jan R. Landwehr, *Psychology & Marketing*, 29(1), 36-51 (2012)

- “Disjunctions of Conjunctions, Cognitive Complexity, and Consideration Sets,” with John Hauser, Olivier Toubia, Theodoros Evgeniou, and Daria Dzyabura, *Journal of Marketing Research*, 47(3), 485-496 (2010)
- “Asymmetrische Urteile über die Produktähnlichkeit” (“Asymmetric Judgments about Product Similarity),” with Andreas Herrmann and Mark Heitmann, *Wirtschaftswissenschaftliches Studium (WiSt)*, 2008(4), 223-226 (2008)
- “Alles für die Marke? Zum Konflikt zwischen der Konformität mit der Marke und der eigenständigen Positionierung von PKW Produktlinien (Everything for the Brand? The Conflict between Brand Familiarity and Product Line Autonomy),” with Andreas Herrmann, Mark Heitmann, and Hans Berger, *Zeitschrift für betriebswirtschaftliche Forschung*, 59(8), 1055-1080 (2007)
- “Mit einem Lächeln zum wirtschaftlichen Erfolg?,” with Andreas Herrmann, *Thesis*, 24(2), 8-12 (2007)
- “Produktkonfiguration online: was für Kunden nutzen dieses Medium?,” with Andreas Herrmann, *Wirtschaftswissenschaftliches Studium (WiSt)*, 36(3), 125-131 (2007)
- “Determinants of Radical Product Innovations,” with Andreas Herrmann and Torsten Tomczak, *European Journal of Innovation Management*, Vol. 9(1), 20-43 (2006)

Other publications

- “Parody and Tarnishment: How Empirical Methods Can Aid Triers of Fact,” with Elizabeth Milsark, Marie Warchol and Josh Ng, *IPWatchdog* (May, 19, 2023)
- “Recent Cases on “Green” Messaging in Food and Beverage Company Advertising,” with A. Cai, Rebecca Kirk Fair and Helen Rowland, *Top Food and Drug Cases, 2022, & Cases to Watch, 2023*, ed. August T. Horvath (June 2023)
- “Use of Conjoint Analysis in Litigation: Challenges, Best Practices, and Common Mistakes,” with N. MacMenamin, and A. Pour, in *Legal Aspects of Marketing Theory*, ed. with J. Gersen, New York: Cambridge University Press, (Forthcoming)
- “Moore v. Trader Joe’s Co.,” with Genna Liu and Rebecca Kirk Fair, *Top Food and Drug Cases, 2021, & Cases to Watch, 2022*, ed. August T. Horvath (June 2022)
- “Food and Drug Cases to Watch in 2022,” with James M. Beck, August T. Horvath, William Janssen and Ginger Pigott, *Top Food and Drug Cases, 2021, & Cases to Watch, 2022*, ed. August T. Horvath (June 2022)
- “The Use of Surveys in Lost Profits Analyses”, with A. Cai and Rebecca Kirk Fair, chapter in *Lost Profits Damages: Principles, Methods, and Applications*, co-ed by Jeffrey H. Kinrich and Everett P. Harry III, second edition, (2022)
- “Cigar Association of America et al. v. United States Food and Drug Administration et al.,” with Niall MacMenamin and Genna Liu, *Top Food and Drug Cases, 2020, & Cases to Watch, 2021*, ed. August T. Horvath (June 2021)
- “COVID-19 and Bottom Line Impacts in Trademark Litigation,” with A. Cai, *Quickread*, (December 9, 2020)

- “Expert Analysis: New Survey Methods May Assess Trademark Dilution with More Detail,” with A. Cai and Joel Steckel, *Law 360*, (August 14, 2020)
- “How Purchase Probability Scales Can Shed Light on Consumer Purchase Intentions,” with Alvin J. Silk, *Landslide*, Vol. 12(1), (2019)
- “Hilsley v. Ocean Spray Cranberries, Inc.,” with Rebecca Kirk Fair, *Top Food and Drug Cases, 2018 & Cases to Watch, 2019*, ed. August T. Horvath (May 2019)
- “The Tyranny of Market Shares: Incorporating Survey-Based Evidence into Merger Analysis,” with Rebecca Kirk Fair and Emily Cotton, *Corporate Disputes* (July–September 2018)
- “Survey evidence to evaluate a marketing claim: Skye Astiana, Plaintiff v. Ben & Jerry’s Homemade, Inc., Defendant,” with Alan G. White, chapter in *Handbook of Marketing Analytics*, Natalie Mizik and Dominique M. Hanssens, eds. (April 2018)
- “Music Consumption and Marketing Science: Does Spotify Change Users’ Music Consumption?” with Liz Neyens, *LinkedIn* (April 2018)
- “Can benefit-based conjoint analysis benefit product design?,” *LinkedIn* (January 2017)
- *Is It Worth Anything? Using Surveys in Intellectual Property Cases*, with Joel H. Steckel and Rebecca Kirk Fair, white paper (2013)
- “Die Produktfamilie – wer ist wer?,” with Andreas Herrmann, *Jahrbuch des Verbands der Schweizer Markt- und Sozialforscher*, 30-35 (2007)

PRESENTATIONS

- “Cognitive Simplicity and Consideration Sets,” with Hauser, J., Toubia, O., Theodoros, E., and Dzyabura, D., INFORMS Marketing Science Conference, Ann Arbor, Michigan (2009)
- “Modeling Cognitive Complexity to Predict Consideration Sets,” with Dzyabura, D., Hauser, J., Toubia, O., and Theodoros, E., INFORMS Marketing Science Conference, Vancouver, British Columbia, Canada (2008)
- “Product Line Positioning, Direction of Comparison, and Asymmetric Similarity Judgements,” with Herrmann, A. and Heitmann, M., Annual Conference of the European Marketing Academy, Brighton, England (2008)
- “Everything for the Brand? Conflicts Between Brand Conformity and Independent Product Lines,” with Herrmann, A. and Heitmann, M., Annual Conference of the European Marketing Academy, Athens, Greece (2006)
- “Conflicts Between Brand Conformity and Independent Product Lines,” with Herrmann, A., Heitmann, M., and Kaiser, C., Annual Conference of the European Marketing Academy, Vienna, Austria (2005)
- “Value-oriented Product Positioning,” with Herrmann, A. and Hoffmann, N., Proceedings of the Annual Conference of the Academy of Marketing Science, Vancouver, British Columbia, Canada (2004)

- “Designing Health Services – How Consumers Differentiate between the Concepts Health, Fitness and Wellness,” with Bauer, H. and Keller, T., 21st Annual Conference of the Association for Health Care Research, Big Sky, Montana (2002)

GRANTS

2006–2007	Swiss National Science Foundation (SNF) scholarship for promising researchers: full scholarship for research projects at Massachusetts Institute of Technology (MIT)
2006	Max Planck Institute full scholarship for Summer Institute Bounded Rationality Program classes and project work related to frugal decision making
2005	SNF scholarship for the ICPSR Summer Program, University of Michigan
2004	SNF scholarship for the ICPSR Summer Program, University of Michigan
1998–1999	Federation of German American Clubs (DAAC) full scholarship for Union College’s M.B.A. program