
WilmerHale 2008 in Review

2009-01-23

Dear Clients and Friends,

For all of us, 2008 was a year of extraordinary challenge and change. We were more grateful than ever for the remarkable clients with whom we are privileged to work, and for the many friends of the firm who enrich our community. Thanks to all of you, and to our talented lawyers and staff, WilmerHale emerged at year-end stable and strong. As we begin a new year, we want to take this opportunity to thank you, share some of our milestones from 2008, and reaffirm our commitment to helping you meet whatever challenges lie ahead.

In 2008 we, like many, rededicated ourselves to the practice of careful fiscal discipline, and that discipline will continue into 2009. But, as always, we manage the firm for the long term and thus we have continued to make strategic investments in key practices critical to the firm's success and to the success of our clients. Most notably, we grew our thriving [Palo Alto](#) and [Los Angeles](#) practices, increasing the depth of the securities, litigation, antitrust, intellectual property, and corporate expertise that we offer to the West Coast market. We bolstered the critical nexus between our California and Beijing offices in order to expand our services to our Asian clients. And, strengthening our European presence, [we ended the year with the December opening of a Frankfurt office](#), which now has 20 lawyers.

It was an exciting year for our trial lawyers, who tried 11 cases to verdict and secured eight wins—with two cases still awaiting decision. The cases were diverse, from patent infringement suits concerning global positioning technology, to a death penalty case in a county circuit court in Alabama, to a \$7 billion breach of contract case in the English Commercial Court in London, in which we achieved victory for Honeywell International. We continued our successful representation of Broadcom, with two trial wins in the United States International Trade Commission for company subsidiary Global Locate. Our International Arbitration team handled more than 50 cases, with a total of more than \$90 billion in dispute. Among other matters, the group won the dismissal of a multi-billion-dollar claim relating to an energy supply contract, and began its representation of the Sudanese People's Liberation Movement/Army in a border dispute being heard at the Permanent Court of Arbitration at the Hague in the midst of ongoing civil war in Sudan.

Our Supreme Court and Appellate team argued five cases before the United States Supreme Court

and handled more than 100 appellate cases, resulting in six notable victories in the Second Circuit and 14 wins in the Federal Circuit—including [four within one week](#). We celebrated [a remarkable string of Supreme Court victories](#), including the [historic ruling](#) that foreign detainees held at Guantánamo Bay have a constitutional right to challenge their detention in U.S. civilian courts. We went on to represent our clients, six Algerian-Bosnian men held at Guantánamo Bay since 2002, in the first habeas corpus hearing held in district court in the wake of the Supreme Court decision, and obtained [a landmark decision ordering the release of five of the men, the first three of whom have now been released](#).

Our Securities practice assisted high-profile clients as the financial landscape shifted almost daily. We acted as the principal securities regulatory counsel to JPMorgan Chase & Co. in its acquisition of The Bear Stearns Companies Inc. and to Bank of America in its acquisition of Merrill Lynch. We also represented Citigroup Global Markets in SEC and state regulatory investigations into its sale and marketing of auction rate securities. Later in the year, we served as securities regulatory counsel to Lehman Brothers in connection with certain restructuring efforts, including the sale of Neuberger Berman. Among other successes in the courts, we obtained dismissal of federal derivative litigation against Sonus Networks and several of its present and former officers and directors in an action challenging the company's historical stock options practice. In December, we concluded a year-long investigation, conducted pro bono on behalf of a Special Committee of the Council of the District of Columbia, into the facts and circumstances surrounding the theft of approximately \$48 million by a longtime employee of the District's Office of Tax and Revenue.

Our Regulatory and Government Affairs practice achieved a number of notable successes for clients before U.S., European and other regulatory agencies. With the financial crisis unfolding, our regulatory lawyers advised Morgan Stanley on foreign ownership and other issues in connection with its effort to obtain a capital infusion from foreign investors. CFIUS clearance was granted for the transaction within a week of filing. We represented [StatoilHydro before the European Commission in its acquisition of ConocoPhillips' network of 194 JET motor fuel stations in Scandinavia](#); provided strategic advice to companies such as Google and Cisco; helped both AT&T and Verizon with major regulatory initiatives before the FCC; and [assisted the Industrial and Commercial Bank of China—the world's largest bank—with its successful application to open its first branch in the United States](#). Our regulatory lawyers also fared well in the courtroom, with the successful appeal and reversal of a Truth-in-Lending Act case against HSBC, and the successful resolution, by federal court consent decree, of both environmental liability and government contract claims against our client Textron at the Massachusetts Military Reservation.

Amid the most challenging market conditions in decades, we handled a wide variety of M&A deals, including [Millennium Pharmaceuticals' \\$8.8 billion acquisition by Takeda Pharmaceutical](#) and the [€3 billion acquisition by our client Energie Baden-Wuerttemberg—Germany's third largest energy company—of a strategic interest in another energy company, EWE](#). We completed a number of corporate financings, such as State Street's \$2.75 billion common stock offering and Lending Club's \$600 million IPO of debt securities, and we participated in other significant transactions, including the deal that led to Discovery Communications' becoming a public company. We also handled more than 200 venture financings and advised clients on many technology, licensing and

similar agreements, including MIT's formation of the Broad Institute Genomics Research Center. Our Bankruptcy and Financial Restructuring practice handled financing transactions totaling over \$42.5 billion and represented various parties in numerous bankruptcies and in bankruptcy-related litigation, including the Frontier Airlines and Adelphia matters. In the past year, our real estate lawyers worked on development projects with a total value of \$8.7 billion, and on transactions totaling \$16.9 billion.

Our Intellectual Property practice continued to obtain high-quality patents for clients across the spectrum. The patent portfolio of one of our startup clients, Nantero, was ranked alongside those of semiconductor industry giants in 2008, by both the Wall Street Journal and the Institute of Electrical and Electronics Engineers. Our lawyers handled a number of interference cases, including two wins at the U.S. Patent and Trademark Office against Genentech relating to a medicine used to treat multiple sclerosis, and prepared more than two dozen reexamination requests for clients in a broad range of technologies. Our IP group teamed up with our litigators and played a pivotal role in a number of high-profile matters shaping the future of intellectual property law at the Federal Circuit, including *In re Bilski*, in which we represented a group of financial services industry clients concerning the narrowing of patent-eligible subject matter related to business methods.

As always, in 2008 we strove to uphold the highest ideals of our profession. In addition to our Guantánamo representation, our lawyers made significant pro bono contributions in matters ranging from [veterans' rights](#) to [immigration](#) to [domestic violence](#). Members of the firm expanded their volunteer service, [furthering their commitment to our longstanding community partners](#) and [launching new programs](#) that strengthened their connections to the [growing network of communities in which we live and work](#). And, we made sure that we did not neglect our internal community. We redoubled our efforts to ensure our firm is a [place where diversity can thrive](#), our [members can enjoy fulfilling work and family lives](#), and [women can advance to the very top of the legal profession](#).

We thank you for all that we have shared in 2008, and, although 2009 promises an uncertain economic and regulatory environment, we look forward to addressing the challenges that lie ahead.

We are grateful to have such an extraordinary community of clients and friends, and wish you all the best in the coming year.

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