
Antitrust Litigation

“The firm is at its best during a fight—whether that’s against an enforcer, or in court against a private litigant.” — *Global Competition Review*

Whether defending or asserting high stakes antitrust claims, clients turn to WilmerHale’s antitrust litigators for their experience, creativity and impressive track record at all stages of litigation, including summary disposition, trial and appeals. Our team, which includes lawyers who have held high-level positions at the US Department of Justice (DOJ), Federal Trade Commission (FTC) and European Commission, represents plaintiffs and defendants in US, UK and European antitrust and competition litigation, and have defended—and, while in government, prosecuted—corporations and individuals in criminal antitrust proceedings and trials.

We have helped companies across industries resolve antitrust claims at the summary disposition, trial and appeal levels, including class actions, private and public European damages actions, competitor actions, administrative actions resulting from cartel enforcement, merger defense, monopolization, abuse of dominant position, boycotts, coordinated conduct, dealer/distribution litigation and state aid. Our litigators are particularly equipped to handle antitrust and competition matters involving an intersection with challenging intellectual property or regulatory questions.

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TRIALS

Our antitrust litigators have tried numerous matters before judges, juries or arbitrators, including:

- Secured a precedent-setting victory, with co-counsel Morgan Lewis, for client DaVita in the first-ever trial of a criminal labor market allocation case brought by the Department of Justice.
- Won a resounding victory for clients T-Mobile and Deutsche Telekom in a landmark antitrust trial in which attorneys general from 13 states and the District of Columbia sought to enjoin the merger of T-Mobile and Sprint.
- Representing Braintree Laboratories at trial in the US District Court for the District of Delaware in defense of Sherman Act claims arising from alleged sham litigation.
- Defending Chesapeake Energy against criminal antitrust charges brought by the Michigan attorney general.
- Representing Regal Entertainment Group in a preliminary injunction hearing in Harris County, Texas involving Texas law analogs to Section 1 and 2 of the Sherman Act.
- While in roles at the US Department of Justice, our lawyers successfully prosecuted at trial two corporate defendants and three executives on charges connected to the TFT-LCD cartel.

APPEALS

We have handled appeals involving questions of antitrust and/or competition law in US federal and state courts of appeals, European and member state courts of appeals, the US Supreme Court, the European Court of Justice and the European General Court, including:

- Representing respondents in *FTC v. Phoebe Putney Health Systems, Inc.* in the US Supreme Court, which affirmed the antitrust state-action doctrine that provides that the antitrust laws do not reach the conduct of states or their officers or agents.
- Representing the NCAA in its appeal of the *O'Bannon* decision in the Northern District of California, which held that NCAA amateurism rules that prohibit athletes from being paid for the use of their names, images and likenesses violate the Sherman Act.
- Representing Medtronic in obtaining an affirmance of a summary judgment against a claim that implicated complex issues at the intersection of Copperweld and conspiracy to monopolize doctrine.
- Won a significant victory in the US Supreme Court on behalf of several ocean shippers in *Court in Stolt-Nielsen v. Animalfeeds*, a case raising important issues of class arbitration under the Federal Arbitration Act.

PRE-TRIAL LITIGATION AND ARBITRATION

Our team litigates and resolves antitrust and competition matters for defendants and plaintiffs in courts and other proceedings in the United States, the United Kingdom, Europe and its members states, including:

- Representing Japanese auto parts manufacturer DENSO and its subsidiaries in

putative civil class action, opt out and state attorneys general litigations alleging conspiracies to fix prices of certain auto parts. The investigations and related civil litigation have been described as the largest and most complex in history.

- Defending Statoil ASA and Statoil US Holdings against putative class actions on behalf of crude oil derivatives traders and oil-producing landowners who allege major oil producers and traders manipulated price reporting agency crude oil benchmarks.
- Representing a major MasterCard issuer in defending against a massive, multidistrict antitrust class action filed on behalf of merchants against Visa, MasterCard and the major payment card issuers alleging that the interchange fees set by Visa and MasterCard for processing credit card transactions are unlawful.
- Representing a multinational pharmaceutical manufacturer in a series of cases brought by the FTC as well as putative classes of direct and indirect purchasers of its flagship product and a would-be generic competitor challenging our client's settlement of Hatch-Waxman patent litigation over Provigil under the Sherman Act and Federal Trade Commission Act. Obtained favorable settlement.
- Representing a large pharmaceutical company in a case brought by over 30 state Attorneys General in the Eastern District of Pennsylvania over alleged efforts to block entry of generic versions of one of the company's pharmaceuticals.
- Representing Lufthansa in cartel damages actions in Germany and the United Kingdom.