

## REPRESENTATIVE ANTITRUST CASES

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Fenwick & West's litigators bring years of antitrust experience in a broad range of industries to bear on the competition law issues facing a diverse range companies. We represent plaintiffs and defendants in federal and state court as well as before the antitrust enforcement agencies. We handle all of the traditional antitrust litigation subjects, including price-fixing and other arrangements among competitors, monopolization, distribution arrangements, mergers and acquisitions and price discrimination. Because our clients are principally technology companies, we particularly focus our antitrust practice on the competition law issues that these companies face daily, especially those at the intersection of antitrust and intellectual property law. We prosecute and defend cases involving patent or copyright misuse, tying and monopolization, and advise on the antitrust risks of IP licensing or other business arrangements.

Cases representative of our antitrust and competition law expertise include:

Against Gravity Apparel v. Quarterdeck (Appellate Division, New York Supreme Court). Successful defense against a national consumer class action involving claims of unfair competition.

Beeshu Inc. v. Sega of America, (N.D. Cal.) Defended against claim of monopolization of peripheral equipment for videogames. Case voluntarily dismissed after successful motions in limine exclude plaintiff's principal damages theory.

Block Financial Corporation v. Intuit Inc., (U. S. District Ct., D.Mo.). Defended charges that exclusive distributorship licenses violated federal antitrust law. Settled.

Brøderbund Software, Inc. et al. v. Mattel, Inc. et al., (Marin Superior Court). Successful defense of Broderbund Software against Mattel's application for a temporary restraining order and motion for a preliminary injunction for unfair competition. Subsequently settled.

Capellan/Cameron v. Symantec Corporation (Santa Clara County Superior Court). Successful defense against two national consumer class actions involving claims of unfair competition.

Carneros Creek Winery v. Joseph E. Seagram & Sons, Inc. (S. F. Superior Court). Defended against claims of below-cost pricing in superpremium wine industry. Defense judgment after three and one-half month trial.

Chilelli v. Intuit Inc. (Nassau County, New York),. Successful defense against three consolidated national consumer class actions for unfair competition.

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Color & Design, Inc. v. Exhibitgroup, Inc. (N.D. Cal.) Defended largest national provider of exhibition construction and management services against competitor's claims of attempted monopolization and violation of Section 1 of Sherman Act. Case settled after mediation.

Critical Path Solutions, Inc. v. Critical Path, Inc., (Santa Clara Superior Court). Summary judgment against unfair competition claims.

Defended a large movie theater circuit in a complex antitrust suit brought by a competitor against the exhibitor and major movie distribution companies.

Defended a venture capital firm in major trade secret / unfair competition litigation brought by IBM against a start-up company, departing employees and the venture firm, involving allegations of 917 separate trade secret violations in connection with thin film head technology.

Defended an insurance broker in an antitrust and unfair competition lawsuit brought by a terminated broker.

Defended health care professionals in an antitrust suit brought by a competitor against the professionals and a major Bay Area hospital in which the plaintiff doctor claimed that he was effectively barred from practicing surgery at the defendant hospital.

Dillett v. GTE Mobilnet, Inc. (Contra Costa Superior Court) Defend cellular service provider against claim by agent/reseller for below cost pricing, loss leaders, price discrimination, and violations of California antitrust laws. Case settled.

Entrust, Inc. v. Verisign, Inc. (N.D. Va. 2000) Defended acquisition against claims for attempted monopolization and anticompetitive merger under the Sherman and Clayton Acts. Defeated request for preliminary relief was defeated, and case was subsequently dismissed.

Federal Trade Commission v. World Wide Factors, Ltd., 882 F.2d 344 (9th Cir. 1989). Defense against unfair competition claim by Federal Trade Commission. Settled.

Fishbein v. Corel Corp. (Pa. Ct. Common Pleas, Snyder Cty.). Successful defense of software publisher Corel against national consumer class action for unfair competition.

Gemisys Corporation v. Phoenix American, et al., 50 USPQ2d 1876 (N.D. Cal.). Successful defense unfair competition claims.

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Giants of Tampa Bay, Ltd. v. San Francisco Baseball Associates, L.P. (Monterey Superior Court; Pinellas (Florida) District Court; U.S. District Courts, N. D. Calif. & M. D. Fl.). Defense of monopolization and conspiracy claims arising out of efforts by local S. F. investors and Major League Baseball to retain the National League Giants franchise in San Francisco. Mutual dismissals.

Hannah Films v. Micron Electronics (Canyon County, Idaho, 1998). Successful defense against a national consumer class action for unfair competition.

Hinther v. Electronic Arts and Origin Systems (San Diego County Superior Court). Successful defense of purported national or a state consumer class action for unfair competition.

In re Commercial Tissue Antitrust Litigation (San Francisco Superior Court). Defense of price-fixing class action brought on behalf of indirect purchasers of paper products. Settled.

In re Polypropylene Carpet Antitrust Litigation (San Francisco Superior Court). Defense of price-fixing class action brought on behalf of indirect purchasers of polypropylene carpet. Settled.

In re San Francisco Hotel Price-Fixing Investigation. Defended major San Francisco hotel in California Attorney General's multi-year investigation into alleged price-fixing. Investigation closed with no enforcement action.

Intervention, Incorporated v. Corel Corporation, et al. (California Court of Appeal). Affirming successful defense of national software publishers from claims of unfair competition.

Issokson v. Intuit Inc. (Santa Clara Superior Court.) Successful defense against three consolidated national consumer class actions for unfair competition.

Leider v. Slakey Bros., (E.D. Cal.) Defended against claims of attempted monopolization, below cost pricing, and price discrimination under Robinson Patman Act. Summary judgment granted as to antitrust claims.

Ocular Sciences. Representing this contact lens manufacturer in actions filed against Internet distributors for trademark infringement, interference with contract, and unfair business practices. Recently obtained permanent injunctions against two defendants in separate actions.

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Petrochem, Inc. v. Northern California Plumbers and Pipefitters et al., (N.D. Cal.) *aff'd* 8 F.3d 29 (9th Cir. 1993), cert. denied, 510 U.S. 1191 (1994). Defended labor unions and law firm against allegations of violation of Sherman Act and RICO arising out of defendants' prosecution of legal actions and environmental petitioning activities. Motion to dismiss complaint and amended complaint granted and affirmed on appeal.

Represented a carpet manufacturer in an antitrust class action involving allegations of price fixing in the carpet industry.

Represented a publicly traded computer manufacturer in an intellectual property misappropriation action against a former employee and in the employee's wrongful termination counterclaim.

Represented a publicly traded hotel and gaming company in an antitrust suit against two competitors, arising out of client's efforts to develop a new hotel/casino.

Represented an aircraft manufacturer in an antitrust counterclaim brought by a competitor in the replacement parts aftermarket.

Represented generic pharmaceutical manufacturer in antitrust class actions against client and manufacturer of brand name drug arising out of defendants' interim settlement of patent litigation.

Willey v. Phoenix Communications, Inc. (Santa Clara Superior Court). Defended a telecommunications carrier against claims that its service pricing violated state unfair trade practices law. Settled.