

Antitrust Law, Policy, and Procedure

Antitrust Law, Policy, and Procedure

Cases, Materials, Problems

NINTH EDITION

E. Thomas Sullivan

PRESIDENT EMERITUS AND PROFESSOR OF LAW AND POLITICAL SCIENCE
OF THE UNIVERSITY OF VERMONT
DEAN EMERITUS, UNIVERSITY OF MINNESOTA LAW SCHOOL AND
UNIVERSITY OF ARIZONA ROGERS COLLEGE OF LAW

Herbert Hovenkamp

JAMES G. DINAN UNIVERSITY PROFESSOR,
UNIVERSITY OF PENNSYLVANIA LAW SCHOOL AND THE WHARTON SCHOOL

Howard A. Shelanski

PROFESSOR OF LAW, GEORGETOWN LAW

Christopher R. Leslie

CHANCELLOR'S PROFESSOR OF LAW, UC IRVINE SCHOOL OF LAW



CAROLINA ACADEMIC PRESS

Durham, North Carolina

Copyright © 2024
Carolina Academic Press
All Rights Reserved

ISBN 978-1-5310-2753-7
eISBN 978-1-5310-2754-4
LCCN 2023944032

Carolina Academic Press, LLC
700 Kent Street
Durham, NC 27701
(919) 489-7486
www.cap-press.com

Printed in the United States of America

Contents

Table of Cases	xix
Preface to the Ninth Edition	xli
Preface to the Eighth Edition	xliii
Preface to the Seventh Edition	xlvi
Preface to the Sixth Edition	xlvii
Preface to the Fifth Edition	xlix
Preface to the Fourth Edition	li
Preface to the Third Edition	liii
Preface to the Second Edition	lv
Preface to the First Edition	lvii
Chapter 1 · Introduction to the Competition Model	3
I. Overview: The Policies and Goals of Antitrust Regulation	3
R.H. Lande, <i>Wealth Transfers as the Original and Primary Concern of Antitrust: The Efficiency Interpretation Challenged</i>	7
Note: Antitrust Goals—Consumer Welfare v. General Welfare	12
II. Common Law Legacies	14
A. English Foundations	14
W. Letwin, <i>Law and Economic Policy in America: The Evolution of The Sherman Antitrust Act</i>	15
1. Contracts in Restraint of Trade	18
2. Combinations in Restraint of Trade	19
B. American Common Law Tradition	21
C. Development of Legislation	23
D. Early Interpretations	25
<i>United States v. Trans-Missouri Freight Ass'n</i>	26
Notes and Questions	28
<i>United States v. Addyston Pipe & Steel Co.</i>	29
Notes and Questions	31

Chapter 2 · Framework for Analysis	39
I. The Economic Problem	39
A. Introduction	39
B. Law of Demand	39
C. The Theory of Costs	42
II. The Market in Movement	48
A. Perfect Competition	48
B. Monopoly	51
C. Relative Performances of Competition and Monopoly	53
D. The Competitive Continuum	56
III. Judicial Emphasis on Economic Reasoning	56
A. Introduction	56
B. Structuralist Analysis	57
C. Efficiency Analysis	58
D. Strategic Behavior	59
Chapter 3 · Special Problems of Antitrust Enforcement	61
I. Enforcement	61
A. Tripartite Approach	61
1. Department of Justice	61
a. Civil Action	62
b. Criminal Prosecutions	62
2. Federal Trade Commission	66
3. Private Suits	69
a. Jurisdiction, Venue, and Service	70
b. Statute of Limitations	75
c. Interstate Commerce Requirement	79
<i>Summit Health, Ltd. v. Pinhas</i>	80
Notes and Questions	85
d. Transnational Application of United States Antitrust Laws	85
Foreign Trade Antitrust Improvements Act	90
Problem 3.1	92
Problem 3.2	92
e. The Direct Purchaser Requirement and the Problem of Passing On	92
<i>Illinois Brick Co. v. Illinois</i>	93
Notes and Questions	99
<i>Apple, Inc. v. Pepper</i>	102
Notes and Questions	108
Problem 3.3	109
f. “Business or Property” Requirement	109
<i>Reiter v. Sonotone Corp.</i>	110
Notes and Questions	112

<i>Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc.</i>	113
Notes and Questions	116
<i>Cargill, Inc. v. Monfort of Colorado, Inc.</i>	117
Notes and Questions	123
Problem 3.4	124
Note: Private Plaintiff Standing and Structural Relief in Merger Cases	124
Problem 3.5	125
Problem 3.6	126
Problem 3.7	126
Problem 3.8	126
g. Standing to Sue	126
<i>Blue Shield of Virginia v. McCready</i>	127
<i>Associated General Contractors v. California State Council of Carpenters</i>	130
B. Parens Patriae	137
C. Advisory Opinions and Clearances Procedure	138
D. Settlement	139
Note: Termination of the Paramount Consent Decree	142
E. Preclusion Effects of a Prior Judgment on Subsequent Private Suits	143
F. Antitrust Counterclaims	146
G. Expert Testimony After <i>Daubert</i>	147
<i>Concord Boat Corp. v. Brunswick Corp.</i>	148
Notes and Questions	151
II. Additional Antitrust Defenses	153
A. First Amendment Protections	153
1. <i>Noerr-Pennington</i> Doctrine	153
2. Economic/Political Boycotts	153
3. Overbroad Remedial Orders	154
B. <i>In Pari Delicto</i> and the Unclean Hands Doctrine	156
<i>Perma Life Mufflers, Inc. v. International Parts Corp.</i>	156
Notes and Questions	159
III. Remedies	161
A. Damages	161
1. Optimal Antitrust Damages	163
2. The Optimal Deterrence Model and Treble Damages	167
B. Award of Attorney's Fees	168
C. Injunctive Relief and Structural Remedies	171
<i>California v. American Stores Co.</i>	174
Notes and Questions	177
D. Contribution and Claim Reduction	179

Chapter 4 · Cartels and Other Joint Conduct by Competitors	181
I. Horizontal Restraints	181
A. The Development of Analytical and Evidentiary Rules	181
1. Introduction: The Problems of Horizontal Arrangements	181
2. Rules of Reason and <i>Per Se</i> Illegality	182
3. Guidelines for Collaboration Among Competitors	183
B. Price Fixing	184
1. The Foundation Cases	184
<i>Chicago Board of Trade v. United States</i>	184
Notes and Questions	187
<i>United States v. Trenton Potteries Co.</i>	188
Notes and Questions	190
<i>Appalachian Coals, Inc. v. United States</i>	192
Notes and Questions	195
2. Supply or Output Restrictions	196
<i>United States v. Socony-Vacuum Oil Co.</i>	196
Notes and Questions	203
3. Data Dissemination and Information Exchanges	204
<i>Maple Flooring Manufacturers Ass'n v. United States</i>	206
Notes and Questions	210
<i>United States v. Container Corp. of America</i>	213
Notes and Questions	217
<i>United States v. United States Gypsum Co.</i>	218
Notes and Questions	223
Problem 4.1	225
4. The Meaning and Scope of the Rule of Reason	225
<i>National Society of Professional Engineers v. United States</i>	225
Notes and Questions	231
<i>Broadcast Music, Inc. v. Columbia Broadcasting System</i>	232
Notes and Questions	240
<i>Catalano, Inc. v. Target Sales, Inc.</i>	242
Notes and Questions	244
<i>Arizona v. Maricopa County Medical Society</i>	245
Notes and Questions	252
<i>National Collegiate Athletic Ass'n v. Board of Regents</i>	254
Notes and Questions	263
<i>California Dental Ass'n v. Federal Trade Comm'n</i>	267
Notes and Questions	270
<i>Texaco, Inc. v. Dagher</i>	275
Notes and Questions	278
<i>National Collegiate Athletic Association v. Alston</i>	279
Notes and Questions	292
Problem 4.2	293
Problem 4.3	294

Problem 4.4	294
Problem 4.5	294
Problem 4.6	295
5. Hub-and-Spoke Conspiracies	296
<i>United States v. Apple, Inc.</i>	296
Notes and Questions	307
6. Most-Favored-Nation (MFN) Clauses	309
C. Proof of Agreement	311
1. Introduction	311
2. Conscious Parallelism and the <i>Interstate Circuit</i> Doctrine	312
<i>Interstate Circuit v. United States</i>	312
Notes and Questions	316
<i>Theatre Enterprises, Inc. v. Paramount Film</i> <i>Distributing Corp.</i>	317
Notes and Questions	319
3. Surviving a Motion to Dismiss	321
<i>Bell Atlantic Corp. v. Twombly</i>	321
Notes and Questions	331
<i>In re Text Messaging Antitrust Litigation</i>	332
Notes and Questions	334
Problem 4.7	337
4. Surviving a Motion for Summary Judgment	338
<i>Matsushita Electric Industrial Co. v. Zenith Radio Corp.</i>	338
Notes and Questions	351
<i>In re High Fructose Corn Syrup Antitrust Litigation</i>	359
Notes and Questions	367
<i>Williamson Oil Co. v. Philip Morris USA</i>	368
Notes and Questions	376
<i>In re Text Messaging Antitrust Litigation</i>	380
Notes and Questions	386
5. Intra-Enterprise Conspiracy	386
<i>Copperweld Corp. v. Independence Tube Corp.</i>	387
Notes and Questions	394
<i>American Needle, Inc. v. National Football League</i>	396
Notes and Questions	403
Problem 4.8	405
Problem 4.9	406
Problem 4.10	407
Problem 4.11	407
D. Market Allocation	407
1. Joint Ventures and Cooperative Research Ventures	407
2. Horizontal Market Divisions	410
<i>United States v. Topco Associates</i>	411
Notes and Questions	417

<i>Polk Bros. v. Forest City Enterprises</i>	418
Notes and Questions	422
<i>In re Railway Industry Employee No-Poach Antitrust Litigation</i>	424
Notes and Questions	428
E. Boycotts and Other Concerted Refusals to Deal	429
1. Development of a Per Se Analysis: Collective Agreements Aimed at Competitors	430
<i>Eastern States Retail Lumber Dealers’ Ass’n v. United States</i>	430
Notes and Questions	431
<i>Klor’s, Inc. v. Broadway-Hale Stores, Inc.</i>	432
Notes and Questions	434
2. The Modern “Per Se Rule” Against Group Boycotts	435
<i>Northwest Wholesale Stationers, Inc. v. Pacific Stationery & Printing Co.</i>	435
Notes and Questions	440
<i>FTC v. Indiana Federation of Dentists</i>	443
Notes and Questions	450
3. Naked and Ancillary Concerted Refusals to Deal	454
<i>Associated Press v. United States</i>	454
Notes and Questions	457
4. Noncommercial Boycotts	459
<i>Missouri v. National Organization for Women</i>	460
Notes and Questions	462
F. Agreements Involving Intellectual Property	465
<i>Federal Trade Commission v. Actavis, Inc.</i>	465
Notes and Questions	476
Antitrust Guidelines for the Licensing of Intellectual Property	482
Chapter 5 · Vertical Restrictions	485
I. Intrabrand Distributional Restraints	485
A. Rationales	485
B. Resale Price Maintenance	487
1. Setting Vertical Minimum Prices	487
<i>Leegin Creative Leather Products, Inc. v. PSKS, Inc., dba Kay’s Kloset . . . Kay’s Shoes</i>	487
Notes and Questions	506
2. Consignment Contracts as Vertical Price Control Devices	514
3. Unilateral Refusals to Deal and the <i>Colgate</i> Doctrine	516
<i>United States v. Colgate & Co.</i>	516
Notes and Questions	517
4. Vertical Maximum Price Fixing	518
<i>State Oil Company v. Khan</i>	519

5. Dealer Termination; Powerful Complaining Dealers	522
<i>Monsanto Co. v. Spray-Rite Service Corp.</i>	524
Notes and Questions	528
Problem 5.1	531
Problem 5.2	531
Problem 5.3	532
Problem 5.4	533
C. Territorial and Customer Restraints: From <i>White Motor</i> to <i>Sylvania</i>	533
<i>Continental T.V., Inc. v. GTE Sylvania, Inc.</i>	535
Notes and Questions	539
1. Dual Distribution Systems — Vertical or Horizontal	543
D. Exclusive Dealerships	544
Problem 5.5	548
II. Interbrand Vertical Foreclosure — Exclusive Dealing, Tying, and Variations	548
A. Exclusive Dealing and Related Practices Under the Rule of Reason	550
1. Exclusive Dealing and Market Power	550
<i>Tampa Electric Co. v. Nashville Coal Co.</i>	554
Notes and Questions	558
Note: Exclusive Dealing and § 2 of the Sherman Act	560
Note: Worker Welfare and Employee Non-Compete Agreements	561
2. Anti-Steering Rules	563
<i>Ohio v. American Express Co.</i>	563
Notes and Questions	580
B. Tying Arrangements	584
1. Introduction: Economics of Tying	584
2. Development of Unique Per Se Rule for Tying Arrangements	589
<i>Times-Picayune Publishing Co. v. United States</i>	590
<i>Northern Pacific Railway v. United States</i>	593
Notes and Questions	597
3. Modern Doctrine: Tying Product Power and Anticompetitive Effects	600
<i>Jefferson Parish Hospital District No. 2 v. Hyde</i>	600
Notes and Questions	613
Problem 5.6	613
<i>Eastman Kodak Co. v. Image Technical Services, Inc.</i>	614
Notes and Questions	628
Note: The <i>Microsoft</i> Litigation	634
<i>United States v. Microsoft Corp.</i>	636
Notes and Questions	639
Note: Defaults and the Law of Tying	641

4. Tying and Intellectual Property	642
<i>Illinois Tool Works, Inc. v. Independent Ink, Inc.</i>	642
Notes and Questions	650
5. Full Line Forcing and Franchise Arrangements	657
<i>United States v. Jerrold Electronics Corp.</i>	658
Problem 5.7	660
Note	661
Problem 5.8	662
6. The Unwanted Tied Product	663
<i>Brantley v. NBC Universal, Inc.</i>	663
Notes and Questions	668
Chapter 6 · Monopoly Structure, Power, and Conduct	671
I. The Problem of Monopoly	671
<i>United States v. American Can Co.</i>	671
Notes and Questions	679
Note: The Economics of Monopolization	682
<i>United States v. Aluminum Co. of America</i>	685
Notes and Questions	696
<i>United States v. United Shoe Machinery Corp.</i>	700
Notes and Questions	707
II. The Modern Monopolization Offense: Power	709
A. Market Power, Barriers to Entry, and the Relevant Market	709
Problem 6.1	717
<i>United States v. E.I. Du Pont de Nemours & Co.</i>	717
Note: Cross-Elasticity of Demand	722
<i>Rebel Oil Co. v. Atlantic Richfield Co.</i>	725
Notes and Questions	727
Problem 6.2	730
Problem 6.3	730
Problem 6.4	730
Problem 6.5	731
Note: Barriers to Entry in Monopolization Cases	731
B. The Geographic Market	735
<i>United States v. Grinnell Corp.</i>	735
Notes and Questions	739
III. The Modern Monopolization Offense: Conduct	742
A. Innovation and Exclusion	743
<i>Berkey Photo, Inc. v. Eastman Kodak Co.</i>	743
<i>California Computer Products v. IBM Corp.</i>	753
Notes and Questions	754
<i>United States v. Microsoft Corp.</i>	760
Notes and Questions	778

B. Monopolization and the Intellectual Property Laws (Mainly Patent and Copyright)	781
1. Improprieties in Procurement or Enforcement of an Invalid Patent	782
2. Patent “Hold up”	784
Problem 6.6	786
3. Refusal to License IP Rights	787
<i>In re Independent Service Organizations Antitrust Litigation</i>	787
Notes and Questions	792
4. Patent Accumulation	793
C. Predatory Pricing and Related Practices	794
1. Structural Prerequisites for a Predatory Pricing Claim — “Recoupment”	796
<i>Brooke Group Ltd. v. Brown & Williamson Tobacco Corp.</i>	796
Notes and Questions	806
Note: When Is Predatory Pricing Rational?	811
Problem 6.7	814
Problem 6.8	815
Note: Predatory Pricing and the Robinson-Patman Act	815
2. Identifying the Predatory Price	818
Notes and Questions	821
Problem 6.9	824
Problem 6.10	825
3. Predatory Buying	825
<i>Weyerhaeuser Co. v. Ross-Simmons Hardwood Lumber Co., Inc.</i>	825
4. Anticompetitive Discounting Practices, Including Package Discounts	831
<i>Cascade Health Solutions v. PeaceHealth</i>	831
Notes and Questions	842
D. Vertical Integration, Refusals to Deal and Exclusionary Contracting	851
1. The Monopolist’s Refusal to Deal and the Essential Facility Doctrine	853
<i>Aspen Skiing Co. v. Aspen Highlands Skiing Corp.</i>	853
Notes and Questions	860
Problem 6.11	866
Problem 6.12	866
Note: The Essential Facility Doctrine	867
<i>Verizon Communications, Inc. v. Law Offices of Curtis V. Trinko, LLP</i>	869
Notes and Questions	876

2. Exclusionary Contracting by the Monopolist	878
<i>United States v. Dentsply International, Inc.</i>	878
Notes and Questions	889
Note: Tying and Exclusive Dealing by the Monopolist	891
3. Vertical Integration and the Price “Squeeze”	893
<i>Pacific Bell Telephone Co. v. linkLine Communications, Inc.</i>	893
Notes and Questions	899
IV. The Offense of Attempt to Monopolize	901
<i>Philadelphia Taxi Association, Inc. v. Uber Technologies, Inc.</i>	902
Notes and Questions	907
Note: Conspiracy to Monopolize	911
Note: Industrial Concentration and Non-Dominant Firms: From Monopolization to Merger Policy	912
Note: Criminal Monopolization	915
Chapter 7 · Mergers and Acquisitions	917
Introduction	917
I. Vertical Integration Through Merger	918
<i>United States v. Columbia Steel Co.</i>	918
Notes and Questions	920
<i>United States v. E.I. Du Pont de Nemours & Co</i>	921
Notes and Questions	924
Note: The Economics of Vertical Mergers	925
Silicon Graphics	930
Notes and Questions	933
Complaint: United States of America v. AT&T, Inc., DirecTv Group Holdings, LLC, and Time Warner Inc.	936
<i>United States of America v. AT&T, Inc.</i>	939
Analysis	941
Notes and Questions	950
Note: Merger Guidelines and Vertical Mergers	952
II. Mergers of Competitors	953
A. The Development of Horizontal Merger Law	
Under the Sherman Act	953
<i>United States v. Columbia Steel Co.</i>	956
Notes and Questions	958
B. Horizontal Mergers Under Section 7 of the Clayton Act and Its 1950 Amendments	959
<i>Brown Shoe Co. v. United States</i>	961
Notes and Questions	966
<i>United States v. Philadelphia National Bank</i>	967
Notes and Questions	971

Problem 7.1	972
<i>United States v. General Dynamics Corp.</i>	973
Notes and Questions	977
Note: Partial Acquisitions	979
1. The Horizontal Merger Guidelines	981
Note: Market Definition and Market Concentration	
Under the Guidelines: The Hypothetical Monopolist	
Test and the Herfindahl-Hirschman Index	982
Problem 7.2	986
Note: The Horizontal Merger Guidelines: Key Changes	
and Innovations from 1992 to 2010	986
Note: The Draft 2023 Merger Guidelines: Key Changes	
and Innovations from 2010 to 2023	988
Notes and Questions	997
2. Judicial Responses to the Merger Guidelines	1002
<i>FTC v. Staples, Inc.</i>	1002
Notes and Questions	1008
<i>FTC v. Staples Inc. and Office Depot Inc.</i>	1010
Notes and Questions	1016
<i>Hospital Corp. of America v. FTC</i>	1017
Notes and Questions	1020
Note: An Efficiency Defense in Merger Cases?	1023
<i>FTC v. H.J. Heinz Co.</i>	1026
Problem 7.3	1032
Note: “Unilateral” Anticompetitive Effects	
of Horizontal Mergers	1033
Note: Mergers and Innovation	1036
Note: Market Definition and Competitive Effects	
After the 2010 Guidelines	1041
<i>FTC v. Lundbeck, Inc.</i>	1042
Notes and Questions	1046
<i>United States v. H&R Block, Inc.</i>	1047
Notes and Questions	1063
<i>Saint Alphonsus Medical Center—Nampa Inc. v.</i>	
<i>St. Luke’s Health System, Ltd.</i>	1065
Notes and Questions	1074
Note: Government Guidelines on Merger Remedies	1075
III. Mergers of Potential Competitors	1076
<i>United States v. Sidney W. Winslow</i>	1076
Notes and Questions	1077
<i>FTC v. Procter & Gamble Co.</i>	1079
Notes and Questions	1083
Note: The Common Carrier Immunity From § 7	1088

IV. The Failing Company Defense	1089
<i>Citizen Publishing Co. v. United States</i>	1089
Notes and Questions	1091
V. Private Enforcement of Section 7	1093
<i>Cargill, Inc. v. Monfort of Colorado, Inc.</i>	1096
Notes and Questions	1096
Problem 7.5	1097
VI. Interlocking Directorates Under Section 8 of the Clayton Act	1098
VII. Should We Regulate Bigness?	1099
Chapter 8 · Secondary-Line Differential Pricing and the Robinson-Patman Act	1105
Chapter 9 · Antitrust, Other Forms of Regulation, and Exemptions	1107
I. Antitrust and Agency Regulation	1108
A. Overview	1108
B. Theories of Regulation and the Movement Toward Deregulation	1109
1. The Rise and Rationale of Regulation	1109
2. Natural Monopoly, Contestability, and Deregulation	1110
3. Network Deregulation, Interconnection, and Antitrust	1114
4. Technological Change and Deregulation	1117
C. Jurisdictional and Prudential Problems of Antitrust	
Enforcement in Regulated Industries	1119
<i>Credit Suisse Securities LLC v. Billing</i>	1119
Notes and Questions	1127
1. Prudential Considerations After <i>Trinko</i>	1130
<i>Verizon Communications, Inc. v. Law Offices of Curtis V. Trinko, LLP</i>	1130
Notes and Questions	1131
Notice of DOT Authorities and Practices	1133
D. The Federal Trade Commission as Competition Regulator?	1135
Sidebar: The FTC's Competition Rulemaking Authority	1135
Sidebar: The FTC's Proposed Non-Compete Rule	1137
Notes and Questions`	1139
E. Antitrust Exemptions	1140
1. Labor Organizations	1140
Problem 9.1	1146
2. Export Associations	1146
3. Insurance	1148
4. Agricultural Organizations	1150
5. Professional Sports	1150
6. National Sovereign Immunity	1153
II. Petitions to the Government	1155
A. Political Process, "Rent-Seeking," and the Antitrust Laws	1155
<i>Allied Tube & Conduit Corp. v. Indian Head, Inc.</i>	1157

Notes and Questions	1161
<i>FTC v. Superior Court Trial Lawyers Ass'n</i>	1163
Notes and Questions	1169
B. The "Sham" Exception	1170
<i>Professional Real Estate Investors, Inc. v.</i> <i>Columbia Pictures Industries, Inc.</i>	1172
Notes and Questions	1177
Problem 9.2	1182
III. Problems of Federalism: Preemption and the "State Action" Doctrine	1183
A. Preemption	1183
<i>Fisher v. City of Berkeley</i>	1183
Notes and Questions	1185
B. The "State Action" Doctrine	1186
California Retail Liquor Dealers Ass'n v. Midcal Aluminum, Inc.	1188
Notes and Questions	1189
Note: Federalism and the "State Action" Doctrine	1190
1. The Authorization Requirement and the Antitrust Liability of Municipalities and Other Governmental Subdivisions	1191
<i>Hallie v. City of Eau Claire</i>	1193
Notes and Questions	1196
<i>FTC v. Phoebe Putney Health System, Inc.</i>	1197
Notes and Questions	1203
Problem 9.3	1205
<i>City of Columbia & Columbia Outdoor Advertising,</i> <i>Inc. v. Omni Outdoor Advertising, Inc.</i>	1205
Notes and Questions	1210
Problem 9.4	1212
2. The "Active Supervision" Requirement	1212
<i>North Carolina State Board of Dental Examiners v. FTC</i>	1214
Notes and Questions	1223
Problem 9.5	1227
Problem 9.6	1227
Appendix · Selected Antitrust Statutes	1229
Index	1239

Table of Cases

- 1-800 Contacts, Inc. v. Federal Trade Commission, 481
324 Liquor Corp. v. Duffy, 1186
- A.A. Poultry Farms v. Rose Acre Farms, 806, 818
A.D. Bedell Wholesale Co., Inc. v. Philip Morris, Inc., 153
Abbott Lab. v. Brennan, 788
Abbott Lab. v. Mead Johnson & Co., 174
Actavis, FTC v., 14, 465, 478, 1132, 1133
Action Embroidery Corp. v. Atlantic Embroidery, Inc., 74
AD/SAT v. Associated Press, 908
Adaptive Power Solutions, LLC v. Hughes Missile Systems Co., 441
Adderall XR Antitrust Litigation, In re, 865, 866
Addyston Pipe & Steel Co. v. United States, 189
Addyston Pipe & Steel Co., United States v., 5, 22, 29, 182, 228, 231, 235, 291, 420
Advanced Health-Care Servs. v. Radford Community Hosp., 394
Advo, Inc. v. Philadelphia Newspapers, Inc., 906
Affiliated Capital Corp. v. City of Houston, 1170, 1196
Agostini v. Felton, 521
Air Cargo Shipping Services Antitrust Litigation, In re, 335
Airline Ticket Comm'n Antitrust Litig. I, In re, 163
Airline Ticket Comm'n Antitrust Litig. II, In re, 163
Airport Car Rental Antitrust Litig., In re, 460, 1169
Aiyer, United States v., 65, 224, 225
Alaska Airlines v. United Airlines, 758, 877
Alberta Gas Chems. v. E.I. du Pont de Nemours & Co., 934
Albrecht v. Herald Co., 498, 518, 519, 521
ALCOA, United States v., 777
Alexander v. National Farmers Org., 1179
Alfred Dunhill of London v. Republic of Cuba, 89
Allegheny College v. National Chautauqua Cty. Bank of Jamestown, 506
Allen Bradley Co. v. Local Union No. 3, 1141
Allen-Myland, Inc. v. IBM Corp., 881
Alliance for Wild Rockies v. Cottrell, 172
Allied Ortho. Appliances Inc. v. Tyco Health Care Group LP, 640, 756, 846, 847
Allied Tube & Conduit Corp. v. Indian Head, Inc., 153, 465, 685, 1157, 1174, 1211
Aluminum Co. of Am. (Rome Cable), United States v., 973
Aluminum Co. of Am. v. United States, 144
Aluminum Co. of Am., United States v., 5, 56, 89, 340, 624, 685, 702, 857, 898, 899

- Amalgamated Meat Cutters Local 189 v. Jewel Tea Co., 1142
- American Acad. Suppliers v. Beckley-Cardy, 814
- American Airlines, Inc., United States v., 910
- American Bldg. Maint. Indus., United States v., 960
- American Can Co., United States v., 671, 715, 716
- American Column & Lumber Co. v. United States, 204, 221, 223
- American Express Co., United States v., 565
- American Hosp. Supply Corp. v. Hospital Prods. Ltd., 173
- American Linseed Oil Co., United States v., 206, 221, 223
- American Motor Inns, Inc. v. Holiday Inns, Inc., 417
- American Needle, Inc. v. National Football League, 285, 286, 396, 547
- American Signature, Inc. v. United States., 172
- American Society of Mechanical Engineers, Inc. v. Hydrolevel, 458
- American Telephone & Telegraph Co. v. Central Office Telephone, Inc., 896
- American Tobacco Co. v. United States, 316, 392, 623
- American Tobacco Co., United States v., 32, 182, 196, 228, 282, 283, 284, 708, 794
- American Vision Centers v. Cohen, 407
- AMG Capital Management v. FTC, 68
- Anago, Inc. v. Tecno Medical Products, Inc., 123
- Anderson News, L.L.C. v. Am. Media, Inc., 302, 336
- Anderson v. Bessemer City, 1045
- Anderson v. Liberty Lobby, Inc., 357
- Animal Science Products Inc. v. China Minmetals Corp., 90
- Animal Science Products, Inc. v. Hebei Welcome Pharmaceutical Co., 87
- Anthem, Inc., United States v., 940
- Antoine Garabet, M.D., Inc. v. Autonomous Tech. Corp., 177, 178
- Apex Hosiery Co. v. Leader, 433, 459
- Appalachian Coals, Inc. v. United States, 33, 192, 198
- Apple iPhone Antitrust Litig., In re, 103, 106
- Apple, Inc. v. Pepper, 102
- Apple, Inc., United States v., 296, 297, 310, 542
- Arbor Hill Concerned Citizens Neighborhood Ass'n v. County of Albany, 170
- Arch Coal, FTC v., 939, 1010, 1016
- Archer-Daniels-Midland Comp., United States v., 1044
- Arizona v. Maricopa County Medical Society, 245, 277, 307, 458, 489, 584
- Arizona v. Shamrock Foods Co., 100
- Arnold, Schwinn & Co., United States v., 497, 498, 505, 534, 535, 545
- Arrington v. Burger King Worldwide, Inc., 404
- Arthur S. Langenderfer, Inc. v. S.E. Johnson Co., 121
- Arthur Treacher's Franchisee Litig., In re, 172
- Asahi Glass Co. v. Pentech Pharm., Inc., 477
- Ash Grove Cement Co. v. FTC, 1073
- Ashcroft v. Iqbal, 331, 334
- Aspen Skiing Co. v. Aspen Highlands Skiing Corp., 624, 853, 864, 872, 873, 895, 906
- Associated Gen. Contractors of America, Houston Chapter, 1145
- Associated Gen. Contractors of Cal., Inc. v. Carpenters, 325, 341
- Associated Gen. Contractors v. Cal. State Council of Carpenters, 130

- Associated Press v. United States, 454, 457, 458, 776, 867, 873
- AT&T Inc. and BellSouth Corp., In re, 894
- AT&T Mobility, LLC v. AU Optronics Corp., 101
- AT&T, United States v., 140, 144, 353, 778, 868, 939
- Atari Games Corp. v. Nintendo of Am., Inc., 789
- Atkin v. Union Processing Corp., 418
- Atlantic Richfield Co. v. USA Petroleum Co., 800, 818, 819, 845, 897, 903, 905
- Austin v. McNamara, 1225
- Automatic Radio Mfg. Co. v. Ford Motor Co., 757
- Automatic Radio Mfg. Co. v. Hazeltine Res., Inc., 794
- Axon Enterp., Inc. v. FTC, 68
- Aya Healthcare Servs., Inc. v. AMN Healthcare, Inc., 428
- B. Braun Med., Inc. v. Abbott Lab., 790
- B.B. Chem. Co. v. Ellis, 655
- B.F. Goodrich Co., 1020
- Baby Food Antitrust Litigation, In re, 356, 358
- Bafus/Dudley v. Aspen Realty, Inc., 663
- Bahn v. NME Hosps., 406
- Baker Hughes, United States v., 939, 940, 949, 977, 978, 1009, 1010, 1026, 1027, 1048, 1055, 1070
- Ball Mem. Hosp. v. Mutual Hosp. Ins. Co., 731, 861
- Baltimore Scrap Corp. v. David J. Joseph Co., 153, 1181
- Bangor Punta Opers., Inc. v. Bangor & A.R.R., 159
- Bank v. Bellotti 462
- BankAmerica Corp. v. United States, 1098
- Bankers Life & Cas. Co. v. Holland, 72
- Barnes v. Arden Mayfair, 1128
- Barnes v. United States, 319
- Barnosky Oils, Inc. v. Union Oil Co., 552
- Barr Labs., Inc. v. Abbott Labs., 907
- Barry Wright Corp. v. ITT Grinnell Corp., 289, 342, 770, 834, 841, 889
- Bates v. State Bar of Ariz., 154, 232, 1187, 1213
- Bathke v. Casey's General Stores, 740
- Batson v. Live Nation Entm't, Inc., 668
- Bausch & Lomb Optical Co., United States v., 503
- Beef Indus. Antitrust Litig., In re, 100, 101
- Belcher Oil Co. v. Florida Fuels, 126
- Bell Atlantic Corp. v. Twombly, 321, 331, 332, 333, 335, 381, 476, 653, 665, 668
- Bell v. Dow Chem. Co., 76
- Ben Elfman & Sons v. Criterion Mills, 533
- Berkey Photo, Inc. v. Eastman Kodak Co., 743
- Bernstein v. Universal Pictures, Inc., 159
- Bichan v. Chemetron Corp., 136
- Bigelow v. RKO Radio Pictures, 162
- Bigelow v. Virginia, 154, 155
- Blackburn v. Sweeney, 160, 423
- Blenheim Capital Holdings Ltd. v. Lockheed Martin Corp., 89
- Blomkest Fertilizer, Inc. v. Potash Corp. of Saskatchewan, Inc., 355
- Blough v. Holland Realty, Inc., 663, 668
- Blue Cross and Blue Shield of Wis. v. Marshfield Clinic, 69, 171
- Blue Shield of Va. v. McCready, 70, 127, 134
- BMI, Inc. v. MoorLaw, Inc., 650
- Board of Trade of Chicago v. United States, 489
- Bob Maxfield, Inc. v. American Motors Corp., 598

- Bobbs-Merrill Co. v. Straus, 514
 Boeing Co. v. Van Gemert, 170
 Bolt v. Halifax Hospital Medical Center, 401
 Bonjorno v. Kaiser Aluminum & Chem. Corp., 901
 Brader v. Allegheny Gen. Hosp., 906
 Brand Name Prescription Drugs Antitrust Litig., In re, 317, 357, 358, 361, 1028, 1029
 Brantley v. NBC Universal, Inc., 663
 BRFHH Shreveport, LLC v. Willis-Knighton Med. Ctr., 861
 Brighton Bldg. & Main. Co., United States v., 223
 Broadcast Music, Inc. v. Columbia Broadcasting Sys., 6, 33, 232, 248, 249, 257, 277, 285, 402, 446, 447, 489, 638
 Broadcom Corp. v. Qualcomm Inc., 178, 786, 903, 906, 907
 Broadway Delivery Corp. v. United Parcel Serv. of Am., 728
 Brooke Group Ltd. v. Brown & Williamson Tobacco Corp., 59, 151, 323, 374, 569, 629, 796, 807, 826, 830, 838, 841, 845, 875, 895, 896, 897, 898, 912, 949
 Brown Shoe Co. v. United States, 5, 6, 120, 176, 578, 579, 611, 903, 940, 961, 997, 1012, 1013, 1015, 1043, 1049, 1051, 1052, 1068, 1071
 Brown University, United States v., 274, 294, 888
 Brown v. Pro Football, 400, 402, 1142
 Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc., 6, 69, 70, 113, 118, 119, 120, 121, 128, 162, 164, 253, 341, 342, 905, 998, 1091, 1095
 Brunswick Corp. v. Riegel Textile Corp., 78, 782, 787
 Bryan v. James E. Holmes Regional Medical Center, 1225
 Buccaneer Energy (USA) Inc. v. Gunnison Energy Corp., 274, 867
 Burbank v. General Elec. Co., 144
 Burke v. Ford, 82
 Burlington Coat Factory Warehouse v. Esprit de Corp., 531
 Burlington Indus. v. Milliken & Co., 179
 Burnet v. Coronado Oil & Gas Co., 521
 Burtch v. Milberg Factors, Inc., 244, 354
 Business Elec. Corp. v. Sharp Elec. Corp., 182, 489, 490, 492, 493, 494, 495, 496, 497, 498, 530, 566, 569, 627
 Bynoe, United States v., 237
 C.R. Bard, Inc. v. M3 Systems, Inc., 755
 Cable Holdings of Ga. v. Home Video, 724
 California Computer Products v. IBM Corp., 753
 California Dental Ass'n v. FTC, 267, 272, 273, 277, 286, 288, 291, 474, 475, 571
 California ex rel. Brown v. Safeway, Inc., 1143
 California Motor Transp. Co. v. Trucking Unlimited, 461, 462, 1156, 1170, 1173, 1178, 1181
 California Retail Liquor Dealers Ass'n v. Midcal Aluminum, Inc., 1185, 1188, 1199, 1216, 1217, 1223
 California v. American Stores Co., 174, 1067, 1073, 1074, 1096
 California v. ARC America Corp., 101
 Campos v. Ticketmaster Corp., 177
 Capital Currency Exchange v. National Westminster Bank PLC, 72
 Capital Imaging Assocs. v. Mohawk Valley Med. Assocs., 302, 401
 Carbice Corp. of America v. American Patents Development Corp., 646

- Cardinal Health, Inc., FTC v., 1010, 1012, 1015, 1029, 1049, 1060
- Cardizem Antitrust Litigation, 153
- Cardizem CD Antitrust Litigation, In re, 476
- Cargill, Inc. v. Monfort of Colorado, Inc., 117, 175, 177, 800, 813, 841, 903, 998, 1096
- Caribe BMW, Inc. v. Bayerische Motoren Werke Aktiengesellschaft, 123
- Carilion Health Sys., United States v., 294
- Carrier Corp. v. OntoKumpu Oyj, 90, 336
- Carter Hawley Hale Stores v. The Limited, Inc., 1097
- Cascade Health Solutions v. Peace-Health, 664, 665, 666, 831
- Cascade Nat. Gas Corp. v. El Paso Natural Gas Co., 139
- Cason-Merenda v. Detroit Med. Ctr., 225
- Catalano, Inc. v. Target Sales, Inc., 242, 245, 276, 305, 584
- CBS, Inc. v. ASCAP, 240
- CCC Holdings, FTC v., 1012, 1050, 1054, 1055, 1059
- Celestin v Caribbean Air Mail, Inc., 89
- Cement Inst., FTC v., 377
- Cement Mfrs. Protective Ass'n v. United States, 210, 223, 244, 245
- Central Nat'l Bank v. Rainbolt, 1097
- Charley's Taxi Radio Dispatch v. SIDA of Haw., 1190
- Chattanooga Foundry & Pipe Works v. Atlanta, 112, 162
- Chicago Board of Trade v. United States, 66, 33, 184, 193, 198, 220, 402, 446, 447
- Chicago Bridge & Iron Co. N.V. v. FTC, 1056, 1057, 1067, 1068, 1070
- Chicago Prof. Sport, Ltd. Pt'ship v. National Basketball Ass'n, 264
- Chipanno v. Champion Int'l Corp., 78
- Christy Sports, LLC v. Deer Valley Resort Co., 877
- Chrysler Corp. v. General Motors Corp., 161, 1096
- Chrysler Corp. v. United States, 142
- Cine 42nd St. Theater Corp. v. Netherlander Org., 1190
- Cipro Cases I & II, In re, 481
- Citigroup Global Markets Inc. v. VCG Special Opportunities Master Fund Ltd., 171, 172
- Citizen Publishing Co. v. United States, 278, 408, 1089
- Citizens & S. Nat'l Bank, United States v., 218, 221, 856, 874, 1027, 1130
- Citizens to Preserve Overton Park, Inc. v. Volpe, 141
- Citric Acid Litig., In re, 358
- City of (See Name of City)
- Clarett v. NFL, 1144
- Cohen v. Lord, Day & Lord, 160
- Colgate & Co., United States v., 393, 497, 504, 516, 872, 895
- Collins Inkjet Corp. v. Eastman Kodak Co., 629
- Collins v. International Dairy Queen, Inc., 630
- Columbia Metal Culvert Co. v. Kaiser Aluminum & Chem. Corp., 901
- Columbia Pictures Industries, Inc. v. Aveco, Inc., 1176
- Columbia Pictures Industries, Inc. v. Redd Horne, Inc., 1175, 1176
- Columbia Steel Co., United States v., 80, 702, 918, 956
- Columbia, City of, v. Omni Outdoor Advertising, Inc., 1169, 1174, 1180, 1200, 1205, 1216, 1222
- Comcast Corp., United States v., 945

- Community Commun. Co. v. City of Boulder, 1191, 1196, 1200, 1216
- Computer Identics Corp. v. Southern Pac. Co., 394
- Concentrated Phosphate Export Ass'n, United States v., 1146
- Concerned Women for Am., Inc. v. Lafayette Cnty., 172
- Concord Boat Corp. v. Brunswick Corp., 75, 76, 148, 149, 150, 844, 846, 851
- Concord, Town of, v. Boston Edison Co., 731, 874, 897, 898, 1129, 1130
- Conley v. Gibson, 324, 328, 329
- Conmar Corp. v. Mitsui & Co., 77
- Connecticut National Bank, United States v., 607
- Connell Constr. Co. v. Plumbers Local 100, 1141, 1142
- Consolidated Gas Co. of Fla. v. City Gas Co. of Fla., 876, 877
- Container Corp. of Am., United States v., 57, 213, 218, 221, 222, 229, 231, 357
- Continental Airlines, Inc. v. Dulles Airport Airline Mgmt. Council, 266
- Continental Airlines, Inc. v. United Air Lines Inc., 266
- Continental Can Co., United States v., 1078
- Continental Group, Inc., United States v., 223
- Continental Maritime v. Pacific Coast Metal, 1141
- Continental Ore Co. v. Union Carbide & Carbon Corp., 1171
- Continental T.V., Inc. v. GTE Sylvania, Inc., 6, 230, 253, 257, 289, 418, 421, 489, 490, 491, 492, 493, 494, 495, 497, 498, 501, 503, 504, 506, 525, 526, 528, 530, 535, 541, 542, 543, 620, 625
- Contrast Ostrofe v. H.S. Crocker Co., 136
- Conwood Corp. v. U.S. Tobacco Co., 850
- Cooper Corp., United States v., 1153
- Coordinated Pretrial Proceedings in Petroleum Prods. Antitrust Litig., In re, 423
- Copperweld Corp. v. Independence Tube Corp., 277, 323, 387, 397, 398, 399, 400, 420, 952, 1184
- Corn Products Refining Co., United States v., 691
- Corner Pocket of Sioux Falls, Inc. v. Video Lottery Technologies, 352
- Country Lake Foods, United States v., 1021
- Covad Communications Co. v. Bell-south Corp., 757, 1118
- Cox Enterp., Inc., In re, 669
- Craftsmen Limousine, Inc. v. Ford Motor Co., 152, 275
- Credit Suisse Securities LLC v. Billing, 1119
- Critical-Vac Filtration Corp. v. Minute-man Int'l, Inc., 147
- Cromwell v. County of Sac, 144
- CVD v. Raytheon Co., 783, 1179
- D&S Redi-Mix v. Sierra Redi-Mix & Contr'g Co., 822
- Dagher v. Saudi Refining, Inc., 276, 277, 278
- Dairymen, Inc., United States v., 551
- Daniel v. American Board of Emergency Medicine, 71, 74
- Data General Corp. v. Grumman Sys. Support Corp., 790, 791, 792, 877
- Daubert v. Merrell Dow Pharmaceuticals, Inc., 147, 149, 152, 354
- Davenport v. Int'l Bhd. of Teamsters, 172
- Decorative Stone Co. v. Building Trades Council, 170

- Defiance Hosp. v. Fauster-Cameron, Inc., 890
- Delaware & Hudson Ry. Co. v. Consolidated Rail Corp., 877
- Delta Dental of Rhode Island, United States v., 309, 310
- Dentsply Int'l, Inc., United States v., 560, 561, 878
- DeSlandes v. McDonald's USA, LLC, 428, 562
- Detroit Auto Dealers v. FTC, 190, 1146
- Detroit, City of, v. Grinnell Corp., 170
- Deustcher Tennis Bund v. ATP Tour, Inc., 265, 274
- Dial A Car, Inc. v. Transportation, Inc., 709
- Diamond Chem. Co., Inc. v. Akzo Nobel Chems. B.V., 163
- Diaz v. Farley, 452
- Dickerson v. United States, 497, 505
- Diginet Inc. v. Western Union ATS Inc., 174
- Digital Equipment Corp v. Uniq Digital Technologies, Inc., 629, 634
- Dimmitt Agri Indus., Inc. v. CPC Int'l, Inc., 713, 729, 912
- DM Research, Inc. v. College of American Pathologists, 358
- Doe v. Abbott Labs., 847
- Double H Plastics v. Sonoco Prods., 807
- Dr. Miles Medical Co. v. John D. Park & Sons Co., 487, 490, 499, 506, 517, 525
- Duct-O-Wire Co. v. U.S. Crane, Inc., 172
- Duplex Printing Press Co. v. Deering, 1140
- DXS Inc. v. Siemens Med. Sys. Inc., 76
- Dynamic Random Access Memory (DRAM) Antitrust Litig., In re, 92
- E.C. Knight Co., United States v., 25, 79, 1189
- E.I. du Pont de Nemours & Co. v. F.T.C., 310, 377
- E.I. du Pont de Nemours & Co., United States v., 617, 619, 623, 717, 736, 777, 880, 921, 1001, 1049, 1073, 1074
- E.I. du Pont, In re, 59
- East Portland Imaging Center, P.C. v. Providence Health System-Oregon, 908
- Eastern R.R. Presidents Conf. v. Noerr Motor Freight, Inc., 789, 1155, 1160, 1170, 1172, 1173, 1174, 1210
- Eastern States Retail Lumber Dealers' Ass'n v. United States, 430
- Eastman Kodak Co. v. Blackmore, 156
- Eastman Kodak Co. v. Image Tech. Serv. Inc., 59, 724, 729, 758, 789, 802, 864, 882
- Eastman Kodak Co. v. Southern Photo Materials Co., 162, 864
- Eastman Kodak Co., FTC v., 178
- eBay, Inc., United States v., 275, 426
- Echlin Mfg., 733
- Edward J. Sweeney & Sons, Inc. v. Texaco, Inc., 527
- Eiberger v. Sony Corp., 542
- Eichler v. Berner, 159
- Eichorn v. AT & T Corp., 426, 427
- Elders Grain, FTC v., 1020
- Elevator Antitrust Litig., In re, 866
- Eleven Line, Inc. v. North Tex. State Soccer Ass'n, Inc., 757
- Empire Gas Corp., United States v., 909
- Energex Lighting Indus. v. NAPLC, 729
- Englert v. City of McKeesport, 1225
- Eon Labs, Inc. v. SmithKline Beecham Corp., 147
- Epic Games, Inc. v. Apple, Inc., 600, 629
- Erbe Elektromedizin GmbH v. Canady Tech., LLC, 783

- Erie R.R. v. Tompkins, 15
 Evergreen Partnering Group, Inc. v. Pactiv Corp., 336
 Evic Class Action Litigation (Farina v. UPS), 877
 Exhaust Unlimited, Inc. v. Cintas Corp., 77
 Exxon Corp. v. Governor of Maryland, 1183, 1185, 1216

 F. Hoffmann-LaRoche Ltd. v. Empagran, S.A., 91
 Falls City Industries, Inc. v. Vanco Beverage, Inc., 799
 Falstaff Brewing Corp., United States v., 999, 1084, 1085
 Farmington Dowel Prods. Co. v. Forster Mfg. Co., 169
 Fashion Originator's Guild of Am. ("FOGA") v. FTC, 432, 434, 450
 Federal Baseball Club of Baltimore, Inc. v. National League of Prof. Baseball Clubs, 1151, 1152
 Feldman v. Gardner, 1187
 Filetech S.A.R.L. v. France Telecom, 91
 Fineman v. Armstrong World Indus., 880, 881
 First Am. Title Co. v. Devaugh, 1199
 First Nat'l Bank & Trust Co. of Lexington, United States v., 959
 First Nat'l Bank of Arizona v. Cities Service Co., 342
 Fisher v. City of Berkeley, 395, 1183
 Fishman v. Estate of Wirtz, 394, 787, 867
 Flat Glass Antitrust Litig., In re, 304
 Fleetway, Inc. v. Public Service Interstate Transp. Co., 591
 Flood v. Kuhn, 1151
 Florida Bar v. Went For It, Inc., 156
 Florida Fuels, Inc. v. Belcher Oil Co., 877

 Fobbs v. Holy Cross Health Sys. Corp., 1225
 Ford Motor Co. v. United States, 142, 776, 777
 Ford v. Stroup, 909
 Fortner Enterprises, Inc. v. United States Steel Corp., 604, 611, 616, 617, 623, 625, 645, 647
 Fox Film Corp. v. Doyal, 791
 Free v. Abbott Laboratories Inc., 101
 Freeman Hospital, FTC v., 1003
 Fruehauf Corp. v. FTC, 933, 998
 FTC v. (See Name of Defendant)
 Funeral Consumers Alliance, Inc. v. Serv. Corp. Int'l, 170

 General Aircraft Corp. v. Air Am., 1169
 General Dynamics Corp., United States v., 973, 1010, 1068
 General Elec. Co. v. Joiner, 149, 150
 General Elec. Co., United States v., 470, 514
 General Indus. Corp. v. Hartz Mountain Corp., 866
 General Leaseways, Inc. v. National Leasing Ass'n, 173
 General Leaseways, Inc. v. National Truck Leasing Ass'n, 160
 General Mills, Inc. v. Kellogg Co., 172
 General Motors Corp., United States v., 203, 446, 539, 1037, 1038
 Geneva Pharmaceuticals Tech. Corp. v. Barr Labs, Inc., 890
 Georgia v. Pennsylvania R.R., 137
 GF Gaming Corp. v. City of Black Hawk, Colorado, 1163
 Gillen, United States v., 223
 Ginsburg v. InBev NV/SA, 177
 Giusti v. Pyrotechnic Indus., 72
 Glass Equipment Development Inc. v. Besten, Inc., 788, 789
 Glendora v. Gannett Co., 177
 Glidden Co. v. Zdanok, 504

- Goldberger v. Integrated Resources Inc., 170
- Goldfarb v. Virginia State Bar, 111, 227, 230, 1187, 1216, 1217
- Goldlawr, Inc. v. Heiman, 72
- Goldwasser v. Ameritech Corp., 1118
- Gordon v. New York Stock Exchange, Inc., 871, 1119, 1121
- Go-Video v. Akai Elec. Co., 73
- Grand Rapids Plastics Inc. v. Lakian, 75
- Graphic Prods. Distribs. v. Itek Corp., 542
- Grenada Lumber Co. v. Mississippi, 431
- Greyhound Corp. v. Mt. Hood Stages, Inc., 78
- Griffith, United States v., 222, 624, 702, 708, 757, 884
- Grinnell Corp., United States v., 576, 577, 618, 623, 624, 735, 742, 762, 871, 1010
- Group Life & Health Ins. Co. v. Royal Drug Co., 1148
- Grumman Corp. v. LTV Corp., 1097
- GTE New Media Servs. Inc. v. Bell-South Corp., 73
- Gulf & W. Indus. v. Great Atl. & Pac. Tea Co., 979
- Gulf Oil Corp. v. Copp Paving Co., 84
- H & B Equip. Co. v. International Harvester Co., 544
- H & R Block, United States v., 949, 1012, 1047, 1072
- H.A. Artists & Assocs. v. Actors' Equity Ass'n, 1141
- H.J. Heinz, FTC v., 1027, 1028, 1030, 1031
- H.J., Inc. v. International Tel. & Tel. Corp., 1043, 1044
- Hack v. Yale College, 614
- Hallie v. City of Eau Claire, 1193, 1200, 1201, 1208, 1218, 1219, 1225
- Hammes v. AAMCO Transmissions, Inc., 85
- Handgards v. Ethicon (9th Cir. 1979), 782
- Hanover 3201 Realty, LLC v. Village Supermarkets, Inc., 1178
- Hanover Shoe v. United Shoe Mach. Corp., 93, 99, 108
- Hardy v. City Optical, 1226
- Hartford Fire Ins. Co. v. California, 86, 1149
- Hartig Drug Co. v. Ferrellgas Partners, L.P., 76
- Hawaii Hous. Auth. v. Midkiff, 699
- Hawaii v. Standard Oil Co. of Cal., 109, 119, 137
- Haywood v. National Basketball Ass'n, 1151
- HDC Med., Inc. Plaintiff v. Minntech Corp., 640
- Heaton-Peninsular Button-Fastener Co. v. Eureka Specialty Co., 643
- Heattransfer Corp. v. Volkswagenwerk, A.G., 925
- Hecht v. Pro-Football, Inc., 867, 868
- Heffernan, United States v., 63
- Heinz, FTC v., 940, 1015, 1016, 1026, 1048, 1054, 1055, 1058, 1061, 1062, 1070, 1071, 1072
- Henry v. A.B. Dick Co., 586, 643, 644
- Henry v. Chloride, Inc., 807, 1044
- Hensley v. Eckerhart, 170
- Hexcel Corp. v. Ineos Polymers, Inc., 77
- High Fructose Corn Syrup Antitrust Litigation, In re, 359, 375
- Hobart Bros. v. Malcolm T. Gilliland, Inc., 417
- Hoffman v. Blaski, 72
- Hohn v. United States, 496
- Hooper v. California, 1152

- Hoosier Energy Rural Elec. Co-Op.,
Inc. v. John Hancock Life Ins. Co.,
172
- Hoover v. Ronwin, 1189, 1199
- Horner v. Graves, 18, 19
- Hospital Bldg. Co. v. Rex Hospital
Trustees, 82, 330
- Hospital Corp. of America v. FTC,
1017, 1028, 1070
- Howard Hess Dental Labs. Inc. v.
Dentsply Int'l, Inc., 302
- Howard v. Babcock, 161
- Hubbard v. Beatty & Hyde, Inc., 1175
- Hudson Valley Asbestos v. Tougher
Heating & Plumbing Co., 911, 912
- Hughes Tool Co. v. Trans World
Airlines, 1127
- Hutcheson, United States v., 1140
- Hyland v. HomeServices of Am., Inc.,
380
- ILC Peripherals Leasing Corp. v.
International Business Machines
Corp., 634
- Illinois Bell Tel. Co. v. Haines & Co.,
867
- Illinois Brick Co. v. Illinois, 93, 102,
104, 108, 137, 138, 164, 503, 504
- Illinois Tool Works, Inc. v. Independ-
ent Ink, Inc., 642, 653
- Image Tech. Servs. v. Eastman Kodak
Co., 630, 716, 729, 788, 790, 792, 793,
851, 863, 864, 877
- Impax Laboratories, Inc. v. Federal
Trade Commission, 480
- Imperial v. Suburban Hospital Assn.,
1226
- In re (See Name of Party or Matter)
- Independent Ink, Inc. v. Trident, Inc.,
In re, 643
- Independent Service Organizations
Antitrust Litigation, In re, 730, 767,
787
- Indiana Dental Assn., In re, 443
- Indiana Federation of Dentists, FTC v.,
268, 269, 307, 443, 453, 458, 471, 473,
566, 575, 584
- Indirect Purchaser Antitrust Litig., In
re, 331
- Initial Pub. Offering Securities Litiga-
tion, In re, 1124
- Inline Packaging, LLC v. Graphic
Packaging Int'l, LLC, 842
- Innovatio IP Ventures, LLC Patent
Litigation, In re, 1179
- Instructional Sys. Dev. v. Aetna Cas.,
815
- Intergraph Corp. v. Intel Corp., 788
- International Air Indus. v. American
Excelsior Co., 822
- International Ass'n of Machinists v.
Organization of Petr. Exporting
Countries, 89
- International Boxing Club of New
York, Inc. v. United States, 623
- International Business Machines Corp.
v. United States, 623, 624
- International Distrib. Centers v. Walsh
Trucking Co., 814
- International Logistics Group, Ltd. v.
Chrysler Corp., 544
- International News Serv. v. Associated
Press, 457
- International Salt Co. v. United States,
589, 624, 637, 643, 644, 646, 648
- International Shoe Co. v. FTC, 1090
- International Tel. & Tel. Corp., In re,
728
- International Travel Arrangers v.
Northwest Airlines, 824, 825
- Interstate Circuit v. United States, 304,
312, 318
- Investors Diversified Services, United
States v., 591
- Issuer Plaintiff Initial Public Offering
Antitrust Litigation, In re, 77

- It's My Party, Inc. v. Live Nation, Inc., 640, 641, 741
- ITT Continental Baking Co., United States v., 925
- J. Truett Payne Co. v. Chrysler Motors Corp., 116
- Jack Walters & Sons Corp. v. Morton Bldg., Inc., 588
- Jacobs v. Tempur-Pedic Int'l, Inc., 544
- JamSports and Entertainment, LLC v. Paradama Productions, Inc., 890
- Japanese Elec. Prods. Antitrust Litig., In re, 338, 339, 340, 342, 346, 470
- JBL Enters. v. Jhirmack Enters., 731
- Jefferson Parish Hosp. Dist. No. 2 v. Hyde, 258, 600, 617, 623, 625, 627, 636, 639, 642, 644, 645, 647, 648, 665, 666, 668
- Jerrold Electronics Corp., United States v., 658
- Jewish Hosp. Ass'n v. Stewart Mech. Enters., 100
- Johnson v. Comm'n on Presidential Debates, 116, 117
- Joint Traffic Ass'n, United States v., 28, 182
- Joyne v. Loder, 510
- Kaiser Found. Health Plan, Inc. v. Abbott Labs., Inc., 783
- Kansas v. UtiliCorp United Inc., 104
- Kartell v. Blue Shield of Mass., Inc., 253, 309, 864
- Kaufman v. Time Warner, 613, 669
- Kay Elec. Cooperative v. Newkirk, 1199, 1201
- K-Dur Antitrust Litigation, In re, 477
- Kellogg Company, In re, 912
- Kemp & Assocs., Inc., United States v., 254
- Kendall v. Visa U.S.A., Inc., 668
- Keogh v. Chicago & Nw. R.R., 1128
- Kerasotes Mich. Theatres v. Nat'l Amusements, 757
- Keurig Green Mountain Single-Serve Coffee Antitrust Litig., 640
- Key Enters. of Del., Inc. v. Venice Hosp., 548, 912
- Khan v. State Oil Co., 829
- Kiefer-Stewart Co. v. Joseph E. Seagram & Sons, 158, 161, 252, 389, 390, 392
- King Drug v. Smithkline, 478, 480
- Kirkwood, City of, v. Union Elec. Co., 1129
- Klehr v. A.O. Smith Corp., 75, 76
- Klein v. Facebook, Inc., 723
- Klor's, Inc. v. Broadway-Hale Stores, Inc., 432, 446, 453, 459
- KM Enterp., Inc. v. Global Traffic Tech., Inc., 73
- Knuth v. Erie-Crawford Dairy Cooperative Assn., 330
- Knutson v. Daily Review, 909
- Kodak v. Image Technical Services, Inc., 561, 567, 569, 614
- Kolon Industries Inc. v. E.I. DuPont de Nemours & Co., 890, 891
- Korean Air Lines Co. Antitrust Litig., In re, 335
- Korean Ramen Antitrust Litig., In re, 77
- Krehl v. Baskin-Robbins Ice Cream Co., 544
- Kumho Tire Co. v. Carmichael, 148, 149, 150
- Kypta v. McDonald's Corp., 560
- Lafayette v. Louisiana Power & Light Co., 462
- Lafayette, City of, v. Louisiana Power & Light Co., 1187, 1188, 1189, 1194, 1195, 1200
- Laitram Corp. v. Deepsouth Packing Co., 78

- Laker Airways v. Sabena, Belgian World Airlines, 86
- Lamictal Direct Purchaser Antitrust Litig. v. All Direct Purchaser Action (Lamictal Direct Purchaser Antitrust Litig.), 479
- Lancaster Community Hospital v. Antelope Valley Hospital Dist., 1199
- Lantec v. Novell, 757
- Law Offices of Curtis V. Trinko v. Bell Atlantic, 1118
- Law v. NCAA, 273
- Lawson Prods., Inc. v. Avnet, Inc., 174
- Leatherman v. Tarrant County Narcotics Intelligence and Coordination Unit, 327
- Leegin Creative Leather Products, Inc. v. PSKS, Inc., 286, 302, 304, 305, 487, 513, 569, 570, 575, 584, 668
- Leh v. General Petr. Corp., 78, 79
- Leisy v. Hardin, 1221
- Lenox MacLaren Surgical Corp. v. Medtronic, Inc., 729
- LePage's Inc. v. 3M, 833, 835, 843, 846, 880, 883, 884, 888, 904
- Les Shockley Racing, Inc. v. Nat'l Hot Rod Ass'n, 665
- Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach, 73
- Liggett Group, Inc. v. Brown & Williamson Tobacco Corp., 798
- Lindy Bros. Bldrs. v. American Radiator & Std. San. Corp., 169, 170
- Line Material Co., United States v., 469, 470
- Litton Sys. v. American Tel. & Tel. Co., 586
- LLC v. Jordan Reses Supply Co., 533
- Loestrin 24 Fe Antitrust Litig., In re, 478
- Loew's Inc., United States v., 143, 604, 642, 643, 644, 646, 648, 651, 665, 666, 667, 791
- Lomar Whsle. Grocery, Inc. v. Dieter's Gourmet Foods, Inc., 523, 825
- Long Island Jewish Med. Ctr., United States v., 1072
- Lorain Journal Co. v. United States, 432, 856, 880, 909
- Los Angeles Memorial Coliseum Comm'n v. NFL, 401
- Lowell v. American Cyanamid Co., 100
- Lower Lake Erie Iron Ore Antitrust Litig., In re, 1128
- Lundbeck, Inc., FTC v., 1042
- M&M Med. Supplies & Serv. v. Pleasant Valley Hosp., 814
- Mackey v. National Football League, 1151
- Magnus Petr. Co. v. Skelly Oil Co., 559
- Mahaffey v. Detroit Newspaper Agency, 1093
- Maiz v. Virani, 355
- Major League Baseball Properties, Inc. v. Salvino, Inc., 401
- Major League Baseball v. Crist, 1151
- Malley-Duff & Assocs. v. Crown Life Ins. Co., 1149
- Mallinckrodt v. Medipart, Inc., 655
- Mandeville Island Farms, Inc. v. American Crystal Sugar Co., 79
- Mannington Mills, Inc. v. Congoleum Corp., 86
- Maple Flooring Manufacturers Ass'n v. United States, 206, 223
- Marathon Oil Co. v. Mobil Corp., 1097
- Marine Bancorporation, United States v., 939, 1010, 1067
- Maris Distributing Co. v. Anheuser Busch, Inc., 542, 631, 634
- Marrese v. American Academy of Orthopaedic Surgeons, 70, 144, 419
- Marsann Co. v. Brammall, 825
- Marucci Sports, L.L.C. v. Nat'l Collegiate Athletic Association, 266

- Maryland & Va. Milk Producers Ass'n v. United States, 1150
- Maryland Coop. Milk Producers, Inc., United States v., 1150
- Maryland v. United States, 778, 868, 1115
- Masimo Corp. v. Tyco Health Care Group, L.P., 847
- Masonite Corp., United States v., 316
- Massachusetts School of Law v. ABA, 153, 1170, 1226
- Massachusetts v. Microsoft Corp., 780
- Mathews v. Lancaster Gen. Hosp., 903
- Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 122, 324, 329, 330, 338, 357, 365, 370, 622, 623, 800, 801, 813, 828, 840, 875, 896, 905, 1131
- Matter of (See Name of Party or Matter)
- McCabe's Furn. v. La-Z-Boy Chair Co., 523, 531
- McCallum v. City of Athens, 1211
- McCormack v. NCAA, 125
- McCray v. Fid. Nat'l Title Ins. Co., 1129, 1149
- McDonald v. Johnson & Johnson, 124
- McDonnell Douglas Corp. v. Green, 327
- McGahee v. N. Propane Gas Co., 841
- MCI Communic. Corp. v. AT&T, 824, 868
- McKenzie v. Mercy Hosp. of Indep., Kansas, 877
- McKesson & Robbins, Inc., United States v., 203
- McLain v. Real Estate Bd. of New Orleans, 79, 80, 82, 84
- MCM Partners, Inc. v. Andrews-Bartlett & Assoc., 312
- McWane, Inc. v. FTC, 561
- Medical Center at Elizabeth Place, LLC v. Atrium Health System, 395
- Memorex Corp. v. IBM Corp., 634
- Mercatus Group, LLC v. Lake Forest Hosp., 1180
- Mercedes-Benz Antitrust Litig., 78
- Mercoid Corp. v. Mid-Continent Co., 147, 605, 644, 646, 654
- Metro Indus., Inc. v. Sammi Corp., 91, 424
- Michigan Bell Tel. Co. v. Engler, 172
- Michigan Citizens for an Independent Press v. Thornburgh, 1093
- Microsoft Corp., United States v. (D.C. Cir. 2001), 560, 561, 636, 640, 760, 875, 880, 883, 884, 886, 888, 893, 1131
- Microsoft Corp., United States v. (D.C. Cir. 1998), 635, 761
- Microsoft Corp., United States v. (D.D.C. 2000), 636, 760
- Microsoft Corp. Antitrust Litigation, In re, 146
- Microsoft, United States v. (D.C. Cir. 1997), 634
- Microsoft, United States v. (D.C. Cir. 1995), 142, 680, 760
- Microsoft, United States v. (D.D.C. 1999), 761, 779
- Mid-West Paper Prods. Co. v. Continental Group, 99, 100
- Midwestern Machinery v. Northwest Airlines, Inc., 76, 178
- Miller v. Wright, 1154
- Mills v. Electric Auto Lite Co., 170
- Minn-Chem Inc v. Agrium Juc., 90
- Minnesota Mining & Mfg. Co. v. New Jersey Wood Fin. Co., 78, 176
- Miranda v. Selig, 1152
- Missouri v. National Org. for Women, 153, 460
- Mitcheal v. Intracorp, Inc., 358
- Mitchel v. Reynolds, 18, 21, 227
- Monfort of Colo. v. Cargill, Inc., 118, 121
- Monsanto Co. v. McFarling, 656

- Monsanto Co. v. Scruggs, 656
- Monsanto Co. v. Spray-Rite Service Corp., 324, 330, 343, 347, 357, 397, 419, 421, 489, 498, 524, 531, 625, 886, 1184
- Moore v. Jas. H. Matthews & Co., 598
- Morgan v. Ponder, 841
- Morgan, United States v., 408
- Morgenstern v. Wilson, 1003
- Morissette v. United States, 220
- Morton Salt Co. v. Suppiger Co., 605, 644, 646, 654
- Morton's Market Inc. v. Gustafson's Dairy Inc., 79
- Motion Picture Patents Co. v. Universal Film Mfg. Co., 644, 646, 654
- Motive Parts Warehouse v. Facet Enterprises, 401
- Mozart Co. v. Mercedes-Benz of N. Am., Inc., 662
- Mt. Lebanon Motors, Inc. v. Chrysler Corp., 852
- Mt. Pleasant, City of, v. Associated Elec. Coop., 407
- Mullaney v. Wilbur, 319
- Multidistrict Vehicle Air Pollution M.D.L. No. 31, 129
- Munaf v. Green, 171
- Municipal Utils. Bd. of Albertville v. Alabama Power, 1227
- Musical Instruments & Equip. Antitrust Litig., In re, 308, 336, 337
- Mylan Pharm. Inc. v. Warner Chilcott Pub. Ltd. Co., 903, 904, 905
- NAACP v. Claiborne Hardware Co., 153, 462, 464
- NASDAQ Market-Makers Antitrust Litigation, In re, 169
- National Ass'n of Regulatory Util. Comm'rs v. Federal Commun. Comm'n, 822
- National Assn. of Securities Dealers, Inc., United States v., 871, 874, 1122, 1131
- National Bancard Corp. v. VISA U.S.A., Inc., 294
- National Bank of Canada v. Interbank Card Ass'n, 1147
- National Collegiate Athletic Assn. Athletic Grantin-Aid Cap Antitrust Litig., In re, 284, 292
- National Football League, United States v., 258
- National Football League's Sunday Ticket Antitrust Litig., In re, 911
- National Petr. Refs. Ass'n v. FTC, 68
- National Reporting Co. v. Alderson Reporting Co., 815
- National Soc'y of Prof. Eng'rs v. United States, 6, 33, 225, 243, 251, 258, 259, 268, 269, 276, 307, 446, 454, 497, 505, 522
- National Woodwork Mfrs. Ass'n v. NLRB, 1142
- NCAA v. Alston, 5, 279, 512
- NCAA v. Board of Regents, 254, 268, 270, 272, 278, 279, 285, 286, 287, 288, 400, 402, 403, 420, 447, 458, 623
- Nelson Radio & Supply Co. v. Motorola, Inc., 552
- Nelson v. Monroe Regional Med. Center, 126
- Neumann v. Reinforced Earth Co., 163
- New Jersey Title Ins. Litig., In re, 1129
- New Jersey v. Morton Salt Co., 79
- New Wrinkle, Inc., United States v., 470
- New York ex rel. Schneiderman v. Actavis PLC, 756
- New York Telephone Co., In re, 875
- New York v. Hendrickson Bros., Inc., 78
- New York v. TempurPedic Int'l, Inc., 544

- New York, State of, v. Kraft General Foods, 1021, 1023
- New York, State of, v. Microsoft Corp., 780
- NicSand, Inc. v. 3M Co., 889
- Nippon Paper Indus. Co., United States v., 63, 91
- NobelPharma v. Implant Innovations, 783, 788, 789, 790, 1177
- Norlin Corp. v. Rooney, Pace, Inc., 174
- North Am. Soccer League v. NFL, 399, 1151
- North Carolina State Board of Dental Examiners v. FTC, 1214
- North Texas Producers Ass'n v. Metzger Dairies, 1150
- North Texas Specialty Physicians v. FTC, 274
- Northeastern Tel. Co. v. AT & T, 762, 822, 841
- Northern Pac. Ry. v. United States, 4, 203, 234, 593, 602, 616, 637, 665
- Northern Securities Co. v. United States, 953, 1203
- Northwest Power Prods. v. Omark Indus., 224
- Northwest Wholesale Stationers, Inc. v. Pacific Stationery & Printing Co., 5, 435, 442, 446, 453
- Nurse Midwifery Ass'n v. Hibbett, 395
- NYNEX Corp. v. Discon, Inc., 451
- O. Hommel Co. v. Ferro Corp., 817
- O'Bannon v. National Collegiate Athletic Assn., 280, 281
- O'Brien, United States v., 1168
- Ocean State Physicians Health Plan v. Blue Cross and Blue Shield of Rhode Island, 309
- Oerlikon-buhrle Holding AG, 92
- Ogden v. Little Caesar Enterprises, Inc., 428
- Ohio v. American Express Co., 282, 563, 599, 628, 993
- Oklahoma Tax Comm'n v. Int'l Registration Plan, Inc., 172
- Oksanen v. Page Memorial Hospital, 401
- Old Dearborn Distrib. Co. v. Seagram-Distillers Corp., 509
- Olin Corp. v. FTC, 723, 1067
- Olympia Equip. Leasing Co. v. Western Union Tel. Co., 815, 862, 863, 868
- Omega Envtl., Inc. v. Gilbarco, Inc., 770, 887
- Oneok, Inc. v. Learjet, Inc., 1130
- Oracle Am., Inc. v. Terix Computer Co., 629
- Oracle Corp., United States v., 1021, 1059, 1060
- Oracle Securities Litig., In re, 171
- Oregon Steam Nav. Co. v. Winsor, 22, 23, 24
- Ortho Diagnostic Sys., Inc. v. Abbott Labs., Inc., 834, 846
- Otter Tail Power Co. v. United States, 864, 867, 873, 877, 1174
- Pace Electronics, Inc. v. Canon Computer Systems, Inc., 124
- Pacific Bell Tel. Co. v. linkLine Com-muns., Inc., 847, 893
- Packard Motor Car Co. v. Webster Motor Car Co., 544, 545
- Paddock v. Chicago Tribune, 546
- Paladin Assocs., Inc. v. Mont. Power Co., 664, 911
- Palmer v. BRG of Georgia, Inc., 422
- Papasan v. Allain, 324
- Paper Systems, Inc. v. Nippon Indus-tries Co., 179
- Paramount Pictures Corp. v. Johnson Broadcasting, Inc., 652
- Paramount Pictures, Inc., United States v., 143, 316, 648

- Parke, Davis & Co., United States v., 518, 525, 526, 1184
- Parker v. Brown, 1186, 1187, 1199, 1208, 1220, 1222, 1225
- Parkway Gallery Furn. v. Kittinger/Pennsylvania House, 532
- Parts & Elec. Motors, Inc. v. Sterling Elec., Inc., 661
- Patel, United States v., 428
- Patrick v. Burget, 1199, 1212, 1217, 1219, 1220
- Patten, United States v., 201
- Patterson v. New York, 319
- Payne v. Tennessee, 504, 521
- Pendleton Constr. Corp. v. Rockbridge Cty., Va., 1205
- Penn-Olin Chem. Co., United States v., 408, 1087
- Pennoyer v. Neff, 1189
- Pennsylvania v. Delaware Valley Citizens' Council for Clean Air, 169
- PepsiCo, Inc. v. Coca-Cola Co., 303
- PepsiCo, Inc., FTC v., 1073
- Perma Life Mufflers, Inc. v. International Parts Corp., 156, 159
- Petroleum Prods. Antitrust Litig., 354
- Petroleum Products Antitrust Litigation, In re, 169
- Pfizer, Inc. v. Government of India, 113
- Philadelphia National Bank, United States v., 967, 992, 1026, 1048, 1054, 1069, 1119
- Philadelphia Taxi Ass'n v. Uber Technologies, 117, 902
- Philco Corp. v. Radio Corp. of Am., 77
- Phillips v. Crown Cent. Petr. Corp., 223
- Phillipsburg Nat'l Bank & Trust Co., United States v., 1015
- Phoebe Putney Health System, Inc., FTC v., 1197, 1216
- Phonetele, Inc. v. American Tel. & Tel. Co., 586
- Photovest Corp v. Fotomat Corp., 388, 652
- Pick Mfg. Co. v. General Motors Corp., 611
- Piedmont Label Co. v. Sun Garden Packing Co., 72
- Pinney Dock & Transp. Co. v. Penn Cent. Corp., 1129
- Pinter v. Dahl, 160
- Pioneer Hi-Bred Int'l v. Holden Found. Seeds, Inc., 1045
- Piper Aircraft Co. v. Reyno, 72
- Pittsburgh Press Co. v. Pittsburgh Comm'n on Human Rels., 154
- PLS.Com, LLC v. National Association of Realtors, 453
- Polk Bros. v. Forest City Enterprises, 418, 428
- Poller v. Columbia Broadcasting System, Inc., 325, 330
- Pollock & Riley, Inc. v. Pearl Brewing Co., 69
- Polygram Holding, Inc. v. FTC, 271
- Port Dock & Stone Corp. v. Oldcastle Northeast, Inc., 853
- PPG Industries, Inc., FTC v., 1027
- Practice Mgm't Information Corp. v. American Medical Ass'n, 655
- Premier Elec. Constr. Co. v. National Elec. Contrs. Ass'n, 145
- Prime Time 24 Joint Venture v. NBC, 153
- Principe v. McDonald's Corp., 560, 658
- Princo Corp. v. ITC, 656
- Processed Egg Products Antitrust Litigation, In re, 267
- Procter & Gamble Co., FTC v., 178, 1007, 1029, 1071, 1073, 1079
- Professional Real Estate Investors, Inc. v. Columbia Pictures Industries, Inc., 1172
- ProMedica Health Sys. Inc. v. FTC, 1010, 1071, 1073, 1074
- ProMedica Health System, Inc., In re, 1074

- Pro-Mold & Tool Co. v. Great Lakes
Plastics, Inc., 788
- PSI Repair Services v. Honeywell, 633
- Puerto Rico Tel. Co. v. San Juan Cable,
LLC, 1178
- Qualcomm Inc., FTC v., 864
- Queen City Pizza, Inc. v. Domino's
Pizza, Inc., 631, 633
- R.J. Reynolds Tobacco Co. v. Premium
Tobacco Stores, Inc., 152
- Race Tires America, Inc. v. Hoosier
Racing Tire Corp., 265
- Rader v. Balfour, 78
- Radio Corp. v. Hazeltine Research, 116,
176
- Radovich v. National Football League,
330, 331, 1151
- Railway Industry Employee No-Poach
Antitrust Litigation, In re, 424
- Rambus, Inc., In re, 784
- Real Truth About Obama, Inc. v.
Federal Election Comm'n, 172
- Reazin v. Blue Cross & Blue Shield of
Kan., 862
- Rebel Oil Co. v. Atl. Richfield Co. (9th
Cir. 1998), 841, 908
- Rebel Oil Co. v. Atl. Richfield Co. (9th
Cir. 1995), 717, 725, 809, 908
- Reilly v. The Hearst Corp., 1093
- Reiter v. Sonotone Corp., 6, 110, 251,
253, 274
- Response of Carolina, Inc. v. Leasco
Response, Inc., 634
- Reyn's Pasta Bella, LLC v. Visa USA,
Inc., 145, 146
- Rice v. Norman Williams Co., 1183
- Rickards v. Canine Eye Registration
Fund, 1179
- Rick-Mik Enterp., Inc. v. Equilon
Enterprises, LLC, 631, 653
- Right Field Rooftops, LLC v. Chicago
Cubs Baseball Club, LLC, 1152
- Ritz Camera & Image, LLC v. SanDisk
Corp., 784
- Riverside, City of, v. Rivera, 170
- Robertson v. Sea Pines Real Estate Cos.
Inc., 404
- Rockford Memorial Corp., United
States v., 959
- Rodriguez de Quijas v. Shearson/
American Express, Inc., 497
- Roland Mach. Co. v. Dresser Indus.,
173
- Rosebrough Monument Co. v. Memo-
rial Park Cem. Ass'n, 162, 170
- Ross v. Bank of America, N.A. (USA),
667
- Rossi v. Standard Roofing, Inc., 357
- Rothery Storage & Van Co. v. Atlas Van
Lines, Inc., 286, 289, 442
- Roy B. Taylor Sales, Inc. v. Hollymatic
Corp., 662
- RSR Corp. v. FTC, 1007, 1073
- Russ Togs, Inc. v. Grinnell Corp., 79
- Ryko Mfg. Co. v. Eden Servs., 1043
- Safeway, Inc. v. Abbott Labs., 847
- Saint Alphonsus Medical Center
— Nampa Inc. v. St. Luke's Health
System, Ltd., 1065
- Sam Fox Pub'g Co. v. United States,
139
- Sampson, United States v., 66
- San Jose, City of, v. Commissioner of
Baseball, 1152
- Sanford Health, FTC v., 996
- SCFC ILC, Inc. v. Visa USA, Inc., 458,
459
- Schering-Plough Corp. v. F.T.C., 476
- Schering-Plough Corp., In re, 480
- Schor v. Abbott Laboratories, 759
- Schwegmann Bros. v. Calvert Distillers
Corp., 509
- Science Prods. Co. v. Chevron Chem.
Co., 727
- SCM Corp. v. Xerox Corp., 794

- Scophony Corp. of America, United States v., 71
- Scotts Co. v. United Indus. Corp., 152
- SD3, LLC v. Black & Decker (U.S.) Inc., 336, 380, 1162
- Sea-Land Service Inc. v. Atlantic Pacific International, 101
- Sealy, Inc., United States v., 397, 400, 401, 411, 514
- Search Int'l, Inc. v. Snelling & Snelling, Inc., 404
- Sears, Roebuck & Co., United States v., 1098
- Service & Training, Inc. v. Data General Corp., 791
- Sessions Tank Liners v. Joor Mfg., 1162
- Shell Oil Co., In re, 276
- Sheppard v. Lee, 117
- Sheridan v. Marathon Petroleum Co., LLC, 652
- Shoppin' Bag of Pueblo v. Dillon Cos., 814
- Sidney W. Winslow, United States v., 1076
- Siegel v. Chicken Delight, Inc., 597, 652, 658
- Silicon Graphics, 930, 933
- Silver v. New York Stock Exchange, 176, 437, 440, 874, 1121, 1131
- Simpson v. Union Oil Co., 514, 540
- Sims v. Greene, 776
- Singer Mfg. Co., United States v., 469, 470
- SmileCare Dental Group v. Delta Dental Plan, 863, 866
- Smith Mach. Co. v. Hesston Corp., 661, 662
- Smith v. Pro Football, Inc., 459, 1151
- Smith v. Ricks, 1226
- SmithKline Corp. v. Eli Lilly & Co., 843, 846
- SMS Systems Maintenance Services, Inc. v. Digital Equipment Corp., 630
- Snook v. Trust Co. of Ga. Bank of Savannah, N.A., 172
- Society of Professional Engineers v. United States, 446, 447, 448, 449
- Socony-Vacuum Oil Co., United States v., 65, 89, 196, 229, 239, 253, 305, 307, 346, 505
- Sofinet v. Immigration and Natural Service, 174
- Sony Corp. of America v. Universal City Studios, Inc., 1175
- South Austin Coalition Community Council v. SBC Communications, 1088
- Southeastern Milk Antitrust Litigation, In re, 274
- Southern Motor Carriers Rate Conf. v. United States, 450, 1190, 1196, 1199
- Southern Pacific Commun. Co. v. AT&T, 342, 824
- Southwire Co. v. J.P. Morgan Chase & Co., 77
- Spartan Grain & Mill Co. v. Ayers, 598
- Spectators' Communication Network, Inc. v. Colonial Country Club, 317
- Spectrum Sports, Inc. v. McQuillan, 742, 743, 758, 799, 876, 905, 907
- Spirit Airlines, Inc. v. Northwest Airlines, Inc., 808, 809, 822
- Springfield Terminal Rwy. Co. v. Canadian Pacific Limited, 909
- Square D Co. v. Niagara Frontier Tariff Bur., 1128
- St. Joseph's Hosp. v. Hospital Corp. of Am., 1182
- St. Jude Med. Inc. Silzone Heart Valves Prods. Liab. Litig., In re, 152
- St. Paul Fire & Marine Ins. Co. v. Barry, 1149
- Standard Mfg. Co. v. United States, 191
- Standard Oil Co. (Indiana) v. United States, 470, 471
- Standard Oil Co. v. FTC, 230

- Standard Oil Co. v. United States, 22, 32, 182, 540, 552, 558, 644, 708, 970, 978
- Staples, Inc., FTC v., 1002, 1010, 1012, 1014, 1029, 1049, 1050, 1051, 1052, 1062
- Starr v. Sony BMG Music Entm't, 304, 310, 334, 335
- State of (See Name of State)
- State Oil Co. v. Khan, 123, 276, 305, 489, 491, 494, 496, 498, 505, 519
- Stearns Airport Equip. Co. v. FMC Corp., 841
- Steves and Sons, Inc. v. JELD-WEN, Inc., 124, 125
- Stokely-Van Camp, Inc. v. Coca-Cola Co., 161
- Strong v. Bell-South Telecomms. Inc., 169
- Sugar Inst. v. United States, 210, 212, 213, 243
- Summit Health, Ltd. v. Pinhas, 80
- Sungard Data Sys., Inc., United States v., 1048
- Super Sulky, Inc. v. United States Trotting Ass'n, 358
- Superior Court Trial Lawyers Ass'n v. FTC, 465
- Superior Court Trial Lawyers Ass'n, FTC v., 153, 451, 1163
- Supermarket of Marlinton, Inc. v. Meadow Gold Dairies, Inc., 78
- SuperTurf, Inc. v. Monsanto Co., 1043
- Surgical Care Center of Hammond, L.C. v. Hospital Serv. Dist. No. 1, 1199
- Swedish Match, FTC v., 1012, 1015, 1023, 1049, 1052, 1054, 1055, 1059
- Swierkiewicz v. Sorema N.A., 327
- Swift & Co. v. United States, 694, 901
- Swift & Co. v. Wickham, 504
- Swift & Co., United States v., 693
- Swift v. Tyson, 15
- Synthroid Mktg. Litig., In re, 171
- Sysco, FTC v., 1011
- Syufy Enters., United States v., 882
- T Corp. v. Iowa Utilities Bd., 873
- Tableware Antitrust Litigation, In re, 441
- Tam Travel, Inc. v. Delta Airlines, Inc. (Travel Agent Comm'n Antitrust Litig.), 334
- Tamoxifen Citrate Antitrust Litigation, In re, 476, 477
- Tampa Elec. Co. v. Nashville Coal Co., 552, 554, 559, 612, 888, 891
- Taubman, United States v., 65
- Taylor Publishing Co. v. Jostens, Inc., 908
- Tea Society v. City of Boston, 172
- Telex Corp. v. IBM Corp., 59
- Tenet Health Care Corp., FTC v., 1029, 1044, 1045, 1071
- Tenneco, Inc. v. FTC, 1085
- Terminal R.R. Ass'n, United States v., 867, 873, 877
- Texaco, Inc. v. Dagher, 275, 282, 285, 286, 402, 489, 493
- Texas Indus., Inc. v. Radcliff Materials, Inc., 179
- Text Messaging Antitrust Litigation, In re, 332, 336, 380, 386
- TFT-LCD (Flat Panel) Antitrust Litigation, In re, 317
- Thatcher Mfg. Co. v. FTC, 960
- Theatre Enterprises, Inc. v. Paramount Film Distributing Corp., 317, 323, 324, 335, 377
- Therm-All, Inc., United States v., 77
- THI-Hawaii, Inc. v. First Commerce Fin. Corp., 159
- Thompson v. 1-800 Contacts, Inc., 77, 78
- Thurman Indus. v. Pay'N'Pak Stores, 731

- Ticor Title Ins. Co., *FTC v.*, 1199, 1203, 1218, 1220
- Timberlane Lumber Co. v. Bank of Am. (9th Cir. 1984), 86
- Timberlane Lumber Co. v. Bank of Am. (9th Cir. 1976), 86
- Timberlane Lumber Co. v. Bank of Am. (N.D. Cal. 1983), 86
- Times-Picayune Publishing Co. v. United States, 573, 590, 597, 603, 607, 618, 642, 644, 906
- Time-Warner, 933
- Timken Roller Bearing Co. v. United States, 400, 411
- Title Ins. Rating Bur. of Ariz., *United States v.*, 1148
- Todd v. Exxon Corp., 225, 376
- Todorov v. DCH Healthcare Authority, 370, 911
- Toledo Mack Sales & Service, Inc. v. Mack Trucks, Inc., 513, 532
- Topco Associates, Inc., *United States v.*, 235, 347, 401, 411, 417, 426, 539, 876, 1215
- Town of (See Name of Town)
- Toys “R” Us, Inc. v. *FTC*, 302, 304, 308, 441, 442, 493, 542
- Toys R Us, Inc., *Matter of*, 308
- Trans-Missouri Freight Ass’n, *United States v.*, 4, 25, 26, 29, 79
- Transparent-Wrap Mach. Corp. v. Stokes & Smith Co., 794
- Trenton Potteries Co., *United States v.*, 22, 188, 198, 202, 499
- Tripoli Co. v. Wella Corp., 230
- Tunis Bros. v. Ford Motor Co., 394
- Tuscaloosa, City of, v. *Harcros Chemicals*, 354, 355, 358, 370
- Twin City Sportservice, Inc. v. Charles O. Finley & Co. (9th Cir. 1982), 909, 1067
- Twin City Sportservice, Inc. v. Charles O. Finley & Co. (9th Cir. 1975), 727
- U.S. Anchor Manufacturing, Inc. v. Rule Industries, Inc., 727, 728
- U.S. Gypsum v. National Gypsum Co., 655
- U.S. Info. Sys., Inc. v. Int’l Bhd. of Elec. Workers Local Union No. 3, AFL-CIO, 152
- U.S. Philips Corp. v. Windmere Corp., 822
- U.S. Steel, *United States v.*, 512
- Union Carbide Corp. *Consumer Prod. Bus. Sec. Litig.*, *In re*, 170
- Union Labor Life Ins. Co. v. Pireno, 1148
- Union Pacific R. Co. v. *United States*, 1208
- United Airlines, Inc. v. U.S. Bank N.A., 1162
- United Mine Workers v. Pennington, 1141, 1156, 1174
- United Nat’l Maintenance, Inc. v. San Diego Convention Center, Inc., 877, 1226
- United Shoe Mach. Corp. v. *United States*, 589
- United Shoe Mach. Corp., *United States v.*, 700, 704, 776
- United States Alkali Export Ass’n v. United States*, 1146
- United States Football League v. National Football League*, 171
- United States Gypsum Co., United States v.*, 218, 316
- United States Postal Serv. v. Flamingo Indus. (USA) Ltd.*, 113, 1153
- United States v.* (See Name of Defendant)
- Unitherm Food Sys., Inc. v. Swift-Eckrich, Inc., 783
- Universal Analytics, Inc. v. MacNeal-Schwendler Corp., 908
- University Health, *FTC v.*, 1007, 1029, 1071, 1072

- Univis Lens Co., United States v., 514
- Urethane Antitrust Litigation, In re, 73, 152, 319
- Utah Pie Co. v. Continental Baking Co., 342, 799, 806, 807
- Valley Liquors, Inc. v. Renfield Importers, Ltd., 523, 546, 730
- Valspar Corp. v. E.I. Du Pont De Nemours & Co., 368
- Varner v. Peterson Farms, 77
- Verizon Communications Inc. v. FCC, 870, 873, 876
- Verizon Communications Inc. v. Law Offices of Curtis V. Trinko, LLP, 289, 290, 291, 758, 838, 866, 869, 894, 897, 1118, 1120, 1130
- Viamedia, Inc. v. Comcast Corp., 640
- Victorian House, Inc. v. Fisher Camuto Corp., 401
- Video Views, Inc. v. Studio 21, Ltd., 1176
- Virgin Atlantic Airways Ltd. v. British Airways PLC, 151, 758
- Virginia Panel Corp. v. Mac Panel Co., 655, 1179
- Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc., 154, 232
- Visa U.S.A., United States v., 882, 886
- Von's Grocery Co., United States v., 5, 120, 972
- W.S. Kirkpatrick & Co. v. Environmental Tectonics Corp., 88
- Wabash, St. L. & Pac. Ry. v. Illinois, 1189
- Walker Process Equip., Inc. v. Food Mach. & Chem. Corp., 1171, 1177
- Wall v. City of Athens, 1210
- Wallace v. IBM Corp., 810
- WalMart Stores, Inc. v. Visa U.S.A. Inc., 152
- Ward Baking Co., United States v., 776
- Warner Commc'ns Inc., FTC v., 1068
- Warrior Sports, Inc. v. National Collegiate Athletic Association, 264
- Waste Management, United States v., 1021
- Watson Carpet & Floor Covering, Inc. v. Mohawk Indus., Inc., 532
- Watson Pharmaceuticals, Inc., FTC v., 466, 473
- Waugh Chapel S., LLC v. United Food & Commercial Workers Union Local 27, 1178
- Weisfeld v. Sun Chem. Corp., 427
- Weisgram v. Marley Co., 151, 153
- Weiss v. York Hosp., 395, 401, 402, 865
- West Penn Allegheny Health Sys. v. UPMC, 76, 905
- Westborough Mall v. City of Cape Girardeau, 1185
- Western Electric Co., United States v., 1115
- Westman Commun. Co. v. Hobart Int'l, 731
- Weyerhaeuser Co. v. Ross-Simmons Hardwood Lumber Co., Inc., 825
- White Motor Co. v. United States, 533, 537
- White v. R.M. Packer Co., 359, 741
- Whitworth v. Perkins, 1205
- Whole Foods Markets, FTC v., 1009, 1051, 1052, 1061
- Wickard v. Filburn, 1189, 1221, 1226
- Wickens v. Evans, 22
- Willamette Dental Group, P.C. v. Oregon Dental Service Corporation, 310
- William Inglis & Sons Baking Co. v. Continental Baking Co., 822, 824
- William Inglis & Sons Baking Co. v. ITT Cont'l Baking Co., 842
- Williams & Co. v. Williams & Co. East, 417

- Williamson Oil Co. v. Philip Morris
USA, 368
- Windsurfing Intl. v. AMF, 655
- Winter v. Natural Resources Defense
Council, Inc., 171
- Women's Sportswear Mfrs. Ass'n,
United States v., 79
- Workers Compensation Ins., In re,
1149
- Wyckoff v. Office of the Comm'r of
Baseball, 1152
- Xechem, Inc. v. Bristol-Meyers Squibb
Co., 76
- Yamaha Motor Co. v. FTC, 1085
- Yellow Cab Co., United States v., 387,
388, 398, 925
- Yentsch v. Texaco, Inc., 598
- Zenith Radio Corp. v. Hazeltine
Research, Inc., 75, 79
- ZF Meritor, LLC v. Eaton Corp., 724,
847
- Zinser v. Continental Grain Co., 100,
101
- Zucker v. Occidental Petroleum Corp.,
169

Preface to the Ninth Edition

We are pleased to present the 40th anniversary and 9th edition of this antitrust casebook. In the past 40 years, antitrust law, enforcement, and policy have changed significantly. Antitrust law, as with all history, has a cyclical nature. At various times, the courts and the Congress defined and redefined the values sought to be advanced by the enforcement of the antitrust laws. Central to these debates underlying the values inherent in antitrust policy is how “competition” is defined.

At one point, since the adoption of the Sherman Act in 1890, the Supreme Court observed that the antitrust laws were designed as a comprehensive charter of economic liberty. Numerous themes have been expressed such as non-economic concerns on political, social, and moral objectives of preserving democratic institutions, industrial organizations of small units, and encouragement of equal competitive opportunities. Other viewpoints focus on controlling conduct that results in reduced output, higher prices, or diminished innovation. Still other opinions strongly promote an economic approach based on economic efficiency and consumer welfare. Today, we see a return in enforcement under the Biden administration to a progressive neo-Brandeis antimonopoly concern on economic power and increased concentration in the marketplace with negative consequences for consumers and workers leading to inequality in society and ultimately an effect on democracy.

In short, as we said in the first edition in 1984, this book attempts to strike a balanced, diversified approach with a wide spectrum of ideas, goals, ideologies, and economic underpinnings of antitrust law. The book has taken seriously alternative viewpoints, whether from the progressive left, the center, or the conservative right, permitting teachers and students a larger perspective for individual thought and choice.

Specific new topics in this 9th edition include:

- Developments in the per se rule for price fixing, including labor cartels (“anti-poaching” agreements) and the possibility of criminal prosecution.
- Discussion on *AMG Capital Management* case, narrowing the ability of the FTC to award monetary relief; and *Axon Enterprise*, that permitted courts to consider the status and protections of the FTC’s administrative law judges.

- Discussion on amendments to venue legislation making it more difficult for actions brought by multiple state attorneys general to be transferred and consolidated.
- Discussion on *Celestin and Blenheim* cases limiting the reach of the Act of State doctrine and expanding the scope of foreign sovereign immunity.
- Discussion on the *Steve's* case permitting a private plaintiff to obtain structural relief in merger cases.
- Discussion of the termination of the *Paramount* consent decree, which had imposed restrictions on distribution in the motion picture industry.
- Excerpt and discussion of the Supreme Court's *NCAA v. Alston* opinion.
- Note on antitrust and worker's noncompete agreements, as well as the FTC's assertion of rulemaking authority under "unfair methods of competition" regulations to ban most such agreements.
- Discussion of tying and exclusive dealing claims in the *Epic Games v. Apple* case, as well as other platform dominance cases.
- Note on criminal prosecutions of illegal monopolies.
- Discussion on FTC/DOJ merger guidelines, reducing material from the 2010 Horizontal Merger Guidelines and adding a detailed discussion of the new Draft 2023 Guidelines.
- Notes on the FTC's 2023 Notice of Proposed Rulemaking to revise regulations regarding the Hart Scott Rodino pre-merger notification requirements.

E. THOMAS SULLIVAN
Burlington, Vermont

HERBERT HOVENKAMP
Philadelphia, Pennsylvania

HOWARD SHELANSKI
Washington, D.C.

CHRISTOPHER R. LESLIE
Irvine, California

January, 2024

Preface to the Eighth Edition

The first edition of this book was published 35 years ago in 1984. This eighth edition of *Antitrust Law, Policy, and Procedure* preserves the structure and approach of previous editions. This edition is completely updated through 2018, including all relevant Supreme Court opinions and the most significant appellate court decisions. All chapters have been updated with new cases, as well as revised Notes and Questions. As before, the book favors no particular ideology and provides balanced coverage of the various antitrust schools of thought.

We continue to make Chapter 8, which addresses second-line enforcement of the Robinson-Patman Act, available for free at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2319067. You may print out multiple copies for classroom use as long as you preserve attribution of authorship. This chapter's removal from this primary text allows us the space in the other chapters to retain the classic foundational cases of antitrust law while adding the most up-to-date cases that illustrate the contours of current antitrust doctrine.

E. THOMAS SULLIVAN
Burlington, Vermont

HERBERT HOVENKAMP
Philadelphia, Pennsylvania

HOWARD A. SHELANSKI
Washington, D.C.

CHRISTOPHER R. LESLIE
Irvine, CA

April, 2019

Preface to the Seventh Edition

This Seventh Edition of *Antitrust Law, Policy, and Procedure* comes out as this case-book has entered its thirtieth year of continuous publication. This year we welcome a fourth author, Professor Christopher R. Leslie of the University of California, Irvine, a prolific and nationally known antitrust scholar with particular experience in the law of collusion and intellectual property rights.

The Seventh Edition is completely updated through 2013. As previously, we have attempted to select and edit cases so as to give balanced coverage of antitrust's various ideologies as well as its economics. All chapters have been completely revised.

Out of concern for publication costs and as a concession to classroom realities, we have moved the Chapter on secondary-line enforcement of the Robinson-Patman Act to SSRN's digital site. Few antitrust teachers continue to cover the materials in that chapter in a basic antitrust course, although it continues to be taught in some advanced or specialty classes or seminars. It can be found at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2319067. We will continue to keep that chapter up to date, and anyone who wishes may use it at no charge, including the printing of multiple copies for classroom use. We ask only that you preserve attribution of authorship.

E. THOMAS SULLIVAN,
Burlington, Vermont

HERBERT HOVENKAMP,
Iowa City, Iowa

HOWARD A. SHELANSKI,
Washington, D.C.

CHRISTOPHER R. LESLIE,
Irvine, California

October, 2013

Preface to the Sixth Edition

This Sixth Edition is a substantial revision from the previous edition, with updating of all case law materials, including the recent decisions of the Roberts Supreme Court, and numerous lower court decisions. In particular we have expanded sections on pricing behavior, intellectual property, merger policy, regulatory policy, and added a great deal of comparative material focusing mainly on the competition law of the European Union.

Beginning with this edition we welcome Professor Howard A. Shelanski as a co-author. Professor Shelanski has been teaching and writing in antitrust and related fields for many years. He has particular expertise in the areas of regulated industries, telecommunications law, and mergers. His knowledge of antitrust policy in high technology industries is particularly welcome.

E. THOMAS SULLIVAN,
Minneapolis, Minnesota

HERBERT HOVENKAMP,
Iowa City, Iowa

HOWARD A. SHELANSKI,
Washington, D.C.

June, 2009

Preface to the Fifth Edition

The structure and approach of the Fifth Edition of *Antitrust Law, Policy and Procedure* remain the same as we used in previous editions. The text has been updated fully with all the Supreme Court decisions and the most important appellate decisions issued since the Fourth Edition was published. In addition, we have updated and expanded notes on economics, international issues, and expert testimony, and we have greatly enlarged the treatment of intellectual property issues. We also include several new problems.

E. THOMAS SULLIVAN,
Minneapolis, Minnesota

HERBERT HOVENKAMP,
Iowa City, Iowa

August, 2003

Preface to the Fourth Edition

This Fourth Edition of *Antitrust Law, Policy and Procedure* continues the basic approach of preceding editions. The central focus is on judicial decisions, supplemented by analytic, historical, and economic notes and questions. Principal decisions and note cases have been updated in all areas, as well as references to secondary sources, and we have added new problems. The edition also adjusts the coverage to include somewhat less in relatively quiet areas, such as vertical and conglomerate mergers, and more in areas of greater activity, such as technology and intellectual property. A few older decisions have been pruned, but we have tried not to change the book's general pitch any more than necessary to reflect new developments.

E. THOMAS SULLIVAN,
Minneapolis, Minnesota

HERBERT HOVENKAMP,
Iowa City, Iowa

March, 1999

Preface to the Third Edition

This edition continues the same approach followed in earlier editions of heavy focus on the case law, together with simple economic analysis and notes representing a variety of ideological viewpoints. In the matter of antitrust ideology, the Supreme Court is as divided and undirected as it has ever been—witness the chasm between the 1992 Kodak decision and the 1993 Spectrum Sports and Brooke decisions.

The increase in the volume of Supreme Court opinions over the last five years has necessitated some pruning and editing of earlier opinions, but we have tried to leave all important concurrences and dissents as intact as possible. This edition also adds several new problems, expanded bibliographies, and all Supreme Court decisions through the October, 1992 term.

We thank Professor Richard D. Friedman of the University of Michigan Law School for numerous invaluable comments. We are also grateful to our research assistants Craig Marquiz, Hrayr A. Sayadian, and Ellen Szarleta for a variety of significant contributions.

E. THOMAS SULLIVAN,
Tucson, Arizona

HERBERT HOVENKAMP,
Iowa City, Iowa

September, 1993

Preface to the Second Edition

We continue to believe that the best approach toward antitrust in the law school curriculum is through the cases. For that reason, this casebook emphasizes judicial opinions and contains relatively more of each one, including dissents, than other books in the field.

We also believe that antitrust should be taught with the “best” legal precedents available, and that sometimes a recent circuit court opinion is better than an outdated Supreme Court opinion. For this reason, some antitrust decisions that were important in the 1960s and earlier have been given very brief treatment or omitted as principal cases in this edition.

Finally, we believe that a casebook designed for a student’s first or second antitrust course should not overwhelm the student with one particular ideology. Antitrust ideologies have come and gone, and they will continue to do so. The notes in this book are designed to take seriously the competing ideologies of left, right, and center, to confront their defects, and to present their strengths. Professors who are strongly committed to a particular ideology should find plenty of material to criticize or, alternatively, to illustrate their views.

This edition encompasses antitrust developments through the summer of 1988 and includes all Supreme Court decisions of the October, 1987 Term.

As a new feature in this edition, we offer a series of problems for class discussion or individual assignment. The problems are analyzed in detail in a Teacher’s Problem Manual to be published as a companion to this volume.

E. THOMAS SULLIVAN,

St. Louis, Missouri

HERBERT HOVENKAMP,

Iowa City, Iowa

January, 1989

Preface to the First Edition

We believe this book on federal antitrust law is a unique and valuable contribution to its genre. Although it covers the same general law as its peers, its perspective is different in several ways that make it particularly useful for teachers hoping to offer a sophisticated but litigation-oriented antitrust course.

First, this book is shorter than most others in the field. Many antitrust books have grown fat with overruled Supreme Court opinions, with opinions whose historical value far exceeds their usefulness as credible statements of current law, and long footnotes of string citations that do little for students facing their first experience in antitrust analysis and problem solving.

To be sure, brevity imposes certain costs. This book contains no separate sections on antitrust and the patent system, and no detailed discussion of the extraterritorial applications of antitrust law. It has only brief sections on antitrust in the regulated and so-called “exempt” industries. Although all these things are useful and can be profitably taught, it is our experience that few instructors emphasize them in the basic three-unit or four-unit antitrust class.

At the same time, this book offers a broader coverage than most on procedural issues, particularly on the law of private enforcement. Because more than ninety percent of all federal antitrust cases are now brought by private plaintiffs, the law of private enforcement has developed a rich and complex “substance” all its own. That law is more appropriate to a basic antitrust course than is the extensive discussion of patents or extraterritorial application.

Likewise this book focuses more than most on the process of antitrust litigation—on evidentiary standards, burden of proof requirements, and standards for judgment. These emphases seem appropriate because concepts such as “market power,” “agreement,” or “intent” are not merely abstractions of the substantive law: They are facts that must be established in court.

An additional, important difference between this book and many others in the field is ideological. This book attempts to strike a balanced, diversified approach in presenting a wide spectrum of ideas regarding the goals and economic underpinnings of antitrust law. The authors of this book disagree with each other about many questions that are central to antitrust policy making today, such as whether increased allocative efficiency should be the exclusive or only one of many antitrust enforcement goals. As a result this book both entertains and takes seriously

alternative viewpoints and permits the students (or the teacher) a larger perspective for individual choice.

Ideological narrowness is nowhere more evident than in the editing of opinions. Antitrust casebooks have become notorious for “ideological editing” that either supports the view of the editor or else makes the court’s position appear far less rational than it really was. Antitrust opinions are particularly conducive to such editing because they are so long—in many cases a fifty-page opinion must be reduced to five or six.

Neither of the authors has permitted an editorial atrocity that reflects too favorably on the ideology of the other. Although nonideological editing does not exist, nothing succeeds like competition in bringing differences of ideology into the light of day. The result in most instances is that the edited opinions contained here are longer than those in other antitrust casebooks. Furthermore, this book prints excerpts from many more concurring and dissenting opinions, particularly when the secondary opinion foreshadowed a position later taken by the Supreme Court.

The book also employs the positive use of economic theories as an analytical device. As to the level of economic sophistication and difficulty, this book must be classified as “medium.” Today no one can ask whether an antitrust casebook should develop price theory and industrial organization; the only question is how much. This book is addressed to students, however, who are assumed to have no prior experience in economics. Its approach centers on the fundamentals.

It offers an introductory chapter and then builds in succeeding chapters on the models created. Unlike casebooks in which economic analysis can be found only in an opening chapter or appendix, the economic analysis in this book is integrated into the notes and discussions following each case selection. Economics in antitrust is valuable only to the extent that it enhances our ability to analyze disputes and make useful policy judgments. For that, a few comments about price theory hidden in an appendix are simply inadequate. Famous and influential opinions such as *Alcoa*, *du Pont*, and *Brown Shoe* have an imposing if dubious economics content, but most students will not discern that content unless they are given at least minimal guidance. We attempt to do that.

In sum, this offering attempts to integrate into the traditional antitrust casebook an appreciation for the rich historical, socio-political, and economic development of the antitrust laws and policies. How the law has evolved and the implications for future development are central to this book’s format. In addition to the doctrinal development, this book attempts to focus the attention of students on the evidentiary and procedural context within which the “substantive” material may be utilized. We hope these objectives will be successful.

E. THOMAS SULLIVAN,
Columbia, Missouri

HERBERT HOVENKAMP,
San Francisco, California

February, 1984