

Antitrust Cases

Bartlit Beck's lawyers have extensive experience investigating, crafting, defending, and trying high stakes antitrust cases. Bartlit Beck has handled both plaintiff and defense side antitrust cases in a variety of industries, including the computer software and hardware industries, the aircraft engine industry, various pharmaceutical industries, the digital media equipment and satellite industries, and a variety of traditional manufacturing industries. We have represented private plaintiffs and defendants as well as the United States Department of Justice. We have tried both Section 2 monopolization and Section 1 conspiracy claims.

Bartlit Beck's representative antitrust clients have included Bayer (A.G.), Carrier Corp., DuPont, Echostar, Micron, Real Networks, United Technologies, and the United States Department of Justice.

Bartlit Beck's lawyers have distinguished themselves among the antitrust bar as the lawyers who routinely try complex antitrust cases. Fred Bartlit has tried at least 13 antitrust cases to verdict, virtually unprecedented among even the most seasoned antitrust lawyers, and has argued landmark criminal and civil price fixing cases before the U.S. Supreme Court (*United States v. United States Gypsum Co.*, 438 U.S. 422 (1978) (economic intent required for criminal conspiracy antitrust defendants); and *Monsanto Co. v. Spray-Rite Serv. Corp.*, 465 U.S. 752 (1984) (new standard for proof of § 1 vertical conspiracies). Bartlit Beck's other partners include lawyers who have obtained multi-million dollar settlements against Microsoft on behalf of RealNetworks, and a former trial attorney for the Antitrust Division, serving as a member of the investigative and trial team in *United States v. Microsoft*. Because of their nationally recognized experience in the area, Bartlit Beck attorneys were appointed Special Trial Counsel to represent the Department of Justice in connection with the remedies phase and Tunney Act proceedings of the *Microsoft* case.

Below are summaries of some of Bartlit Beck's representative antitrust cases:

***Chromalloy Gas Turbine v. United Technologies Pratt & Whitney* (District Court of Bexar County, Texas)**

Represented Pratt & Whitney in suit brought by world's largest independent engine-repair company for alleged monopolization. Chromalloy sought \$600 million in trebled damages. After a three and a half month jury trial, the jury came back with a verdict for Pratt & Whitney of no damages. Judgment affirmed on appeal.

***In Re Ciprofloxacin Hydrochloride Antitrust Litigation* (E.D. N.Y., Fed. Cir.)**

Represented Bayer AG and Bayer Corporation in nationwide class action antitrust litigation related to Bayer's settlement of patent litigation against Barr Laboratories. The antitrust plaintiffs consist of a class of direct purchasers of Cipro (drug store chains) and a class of indirect purchasers (consumers). They alleged it is an antitrust violation for a brand to pay a generic challenger to settle Hatch-Waxman litigation. Plaintiffs moved for summary judgment on the ground that Bayer's settlement payment to Barr was a per se antitrust violation. Bayer defeated summary judgment. Thereafter, the Eleventh and Second Circuits adopted Judge Trager's

reasoning. Following his per se ruling, Judge Trager invited Bayer to file a motion for summary judgment, which Judge Trager granted. Plaintiffs appealed to the Second Circuit, which transferred the Indirect Plaintiffs' appeal to the Federal Circuit. Bayer prevailed in the Federal Circuit.

Sutrak v. Carrier (U.S. District Court, Denver)

Represented Carrier in antitrust and patent-infringement case. Partial summary judgment was granted in Carrier's favor, dismissing the antitrust claims of monopoly leveraging, attempt, and monopolization. The patent and federal anti-dumping claims were tried to a jury, which resulted in a verdict for Carrier.

RealNetworks Inc. v. Microsoft Corp.

Represented RealNetworks in antitrust suit concerning digital media and operating system markets. Resulted in \$761 million settlement for RealNetworks.

United States v. Microsoft (D.D.C.)

Special Government Counsel to the United States in antitrust enforcement action against Microsoft. Represented Department of Justice in Tunney Act hearings.

RealNetworks v. DVD Copy Control Association, Inc., Disney Enterprises, Inc., Paramount Pictures, Corp., Sony Pictures Enter Inc., Twentieth Century Fox Firm, NBC Universal Inc. Warner Bros, and Viacom (N.D. Ca.)

Represented RealNetworks in antitrust case involving a joint agreement between the movie studios to prohibit the individual authorization to copy studio content.

Micron Technology v. Rambus Inc. (D. Del.)

Represented Micron in connection with antitrust claims relating to Rambus' misconduct in standard setting.

Sabre Inc. and Sabre Travel International Ltd. v. Northwest Airlines, Inc. (N.D. Texas)

Represented Sabre in prosecuting breach of contract claim involving its computerized reservation system used by travel agents, and in defending against antitrust claims by Northwest. Case settled favorably.

Confidential pharmaceutical mediation

Represented pharmaceutical company in connection with allegations of anticompetitive conduct in the market for certain drugs, with claimed damages of \$ 1 billion. Case settled favorably for company after mediation, without payment of any claimed damages and a supply agreement providing present and future payments to our client of at least \$ 30 million.