



Stephen McIntyre

Partner

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Stephen McIntyre is a versatile antitrust lawyer who represents clients in civil and criminal investigations, government enforcement actions, and high-stakes private litigation. Stephen brings skill, insight, and practicality to each matter—be it a nationwide class action, a suit against a client’s chief competitor, or an inquiry from a federal or state antitrust enforcer.

Stephen has secured victories for clients in the pharmaceutical, technology, and entertainment industries, among others. His recent successes include an across-the-board summary judgment win in *In re Optical Disk Drives*, a consumer class action in which plaintiffs sought billions in alleged damages from major electronics companies; the dismissal with prejudice of antitrust conspiracy claims against manufacturers of dynamic random access memory (DRAM) chips; and a total victory for a pharmaceutical client whose largest competitor had accused it of monopolizing the market for a life-saving drug.

Stephen is a leader in the antitrust community, serving on the Executive Committee of the California Lawyers Association’s Antitrust & Unfair Competition Law Section and the Executive Committee of the Los Angeles County Bar Association’s Antitrust & Unfair Business Practices Section. In addition to his service in bar associations, Stephen has published and presented on a wide range of antitrust topics.

Fluent in Mandarin Chinese, Stephen maintains an active pro bono practice representing refugees and asylum seekers.

Admissions

Bar Admissions

California

Court Admissions

US District Court for the Central and Northern Districts of California

US District Court for the Northern District of Florida

US Court of Appeals, Third and Ninth Circuits

Education

Duke University, J.D.

Duke University, M.A., East Asian Studies

Brigham Young University, B.A., Chinese: *magna cum laude*

Experience

- Represented Samsung Electronics Co. in *In re Dynamic Random Access Memory (DRAM) Indirect Purchaser Antitrust Litigation* and *In re Dynamic Random Access Memory (DRAM) Direct Purchaser Antitrust Litigation*, putative class actions in which the plaintiffs alleged a conspiracy to restrict the global supply of DRAM products. Repeatedly prevailed over direct- and indirect-purchaser plaintiffs, securing dismissals of the plaintiffs' successive complaints.
- Represented Samsung Bioepis in *In re Humira (Adalimumab) Antitrust Litigation*, the first "reverse-payment" litigation involving biologics and biosimilars. Played a leading role in developing the defendants' dismissal arguments. In June 2020, the district court granted in full defendants' motion to dismiss.
- Wrote winning summary judgment brief on behalf of Samsung Electronics Co. in *In re Optical Disk Drives Antitrust Litigation*, extinguishing class plaintiffs' multi-billion dollar treble damages claim against electronics manufacturers. In November 2019, the Ninth Circuit upheld the decision.
- Represented Impax Laboratories at trial in a Federal Trade Commission enforcement action challenging an alleged "reverse-payment" patent settlement. Took direct examination of Impax's principal economic expert at trial and wrote Impax's post-trial briefs.
- Represented legendary boxing promoter Top Rank in a high-profile antitrust and unfair competition lawsuit against famous boxing magnate. After defeating a hard-fought motion to dismiss, obtained a favorable settlement with significant monetary and structural relief for client.
 - Successfully persuaded Federal Trade Commission to end investigation of allegedly anticompetitive patent settlement agreement without taking any enforcement action against client.
 - Represented electronic components manufacturer in obtaining Federal Trade Commission approval of proposed acquisition by its largest competitor.
 - Defended major Asian airline in multi-district class action litigation alleging global price-fixing conspiracy in the air cargo shipping industry.
 - Co-authored amicus brief to the U.S. Supreme Court on behalf of technology-focused think tank supporting a petition for certiorari in a case involving antitrust immunity under Section 230 of the Communications Decency Act.
 - Co-authored amicus brief to the U.S. Supreme Court on behalf of several civil rights organizations supporting a petition for certiorari in Fourth Amendment excessive-force case.
 - Successfully represented multiple asylum seekers and refugees seeking protection in the United States.

Professional Activities

Author

- "The FTAIA's "Domestic Effects" Exception: Why the Ninth Circuit Got It Right," *Competition* (Fall 2020)
- "May I Have Another? Antitrust Immunity For Serial Petitioning," *Daily Journal* (June 24, 2020)
- "Private Rights and Public Wrongs: Fair Use as a Remedy for Private Censorship," *Gonzaga Law Review* (2012-2013)

- “The Yang Obeys, But the Yin Ignores: Copyright Law and Speech Suppression in the People’s Republic of China,” *UCLA Pacific Basin Law Journal* (2012)
- “Trying to Agree on Three Articles of Law: The Idea/Expression Dichotomy in Chinese Copyright Law,” *Cybaris: An Intellectual Property Law Review* (2010)

Co-Author

- “High Court Disgorgement Ruling Doesn’t Empower FTC,” *Law360* (July 8, 2020)
- “Extraterritoriality After Vitamin C: Are We Between a Rock and a Hard Place?,” *Antitrust Magazine* (Fall 2018)
- “Antitrust Class Actions After the Supreme Court’s 2015 Term,” *Bloomberg BNA Antitrust & Trade Regulation Report* (November 2015)
- “Where to Draw the Line: Should the FTAIA’s Domestic Effects Test Apply in Criminal Prosecutions?,” *Antitrust Magazine* (Summer 2015)
- “The Continuing Violations Doctrine: Limitation in Name Only, or a Resuscitation of the Clayton Act’s Statute of Limitations?,” *Competition* (Spring 2015)
- “The Continuing Relevance of Patent Validity in Reverse-Payment Litigation,” *Concurrences* (Spring 2014)
- “Preserving Legal Privileges in the U.S., California, and the EU,” *Antitrust Report* (December 2012)
- United States Chapter, *Intellectual Property and Antitrust: Getting the Deal Through* (2012-2016 editions)

Presenter

- “At the Intersection of Antitrust & Intellectual Property: Recent Trends,” CLE Presentation (October 2018)
- “Product Hopping, Life Cycle Management, and the Namenda and Doryx Decisions,” O’Melveny & Myers LLP Life Sciences CLE Marathon (September 29, 2016)
- Gave guest lectures on cartel enforcement in antitrust class at the University of Southern California Gould School of Law (April 2015 & April 2016)
- “Beyond FTC v. Actavis: Recent and Emerging Issues at the Intersection of Antitrust and the Pharmaceutical Industry,” Antitrust and Unfair Business Practices Section of the L.A. County Bar Association (May 29, 2015)
- “Courtroom Drama with Chinese Characteristics: A Comparative Approach to Legal Process in Chinese Cinema,” 64th Annual Kentucky Foreign Language Conference, East Asian Studies Division, University of Kentucky (April 14-16, 2011)