

Howard Morse

Senior Counsel



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Antitrust and Competition
Mergers and Acquisitions
Life Sciences
Medtech
Technology
Consumer Protection
CooleyREG

Howard guides clients' mergers and acquisitions through the regulatory approval process at the US Department of Justice (DOJ) and Federal Trade Commission (FTC), and he represents clients in investigations of alleged monopolization, restraints of trade, and unfair and deceptive practices.

Howard has been at the forefront of applying antitrust law to the high-tech sector and at the intersection of antitrust and intellectual property law for nearly 40 years, including issues related to nascent and potential competition, innovation markets, patent pools, standard setting, and settlement of IP litigation.

Before joining Cooley, Howard served for 10 years at the FTC, where he was assistant director of the Bureau of Competition. At the FTC, he was responsible for 50+ enforcement actions, including antitrust enforcement and Hart-Scott-Rodino civil penalty actions. Howard received the FTC's Award for Superior Service for "furthering the Commission's Merger Enforcement Program" and for "advancing the antitrust mission of the Federal Trade Commission in innovation markets and high technology industries."

Chambers USA has reported that Howard is "both knowledgeable and practical" and that he is "a well-respected antitrust counselor, particularly experienced in advising hi-tech companies on the intersection between antitrust and IP law."

Howard's recent representative matters:

Mergers and acquisitions

- AuditBoard, a connected risk platform transforming audit, risk, compliance, and environmental, social and governance (ESG) management, in its \$3 billion 2024 acquisition by a private equity firm
- Everbridge, a global leader in critical event management and national public warning solutions, on its 2024 agreement to be acquired by a private equity firm for \$1.8 billion
- RayzeBio, a clinical-stage radiopharmaceutical therapeutics (RPTs) company with an innovation-leading position in actinium-based RPTs, in its \$4.1 billion acquisition by Bristol Myers Squibb
- Carmot Therapeutics, a firm developing drugs for obesity, diabetes and other metabolic diseases, in its \$2.7 billion acquisition by Roche
- Sazerac, one of the world's largest distilled spirits companies, in its 2024 agreement to acquire BuzzBallz, and earlier in its acquisitions from Constellation Brands (Paul Masson Grande Amber Brandy), Brown-Forman (Early Times, Canadian Mist, Southern Comfort and other brands), and Diageo (Seagram's VO and other brands)
- Apollo Endosurgery, a medical technology company developing next-generation, minimally invasive

devices to advance therapeutic endoscopy, in its \$615 million 2023 sale to Boston Scientific, reviewed in eight countries around the world in addition to the US

- Thirty Madison, an innovative healthcare company, in its 2023 acquisition of The Pill Club and 2022 merger with Nurx
- CinCor Pharma, a clinical-stage biopharmaceutical company developing novel treatments for hypertension and chronic kidney disease, in its \$1.8 billion 2023 sale to AstraZeneca
- Tmunity Therapeutics, a clinical-stage biotechnology company developing chimeric antigen receptor T-cell (CAR-T) therapies, in its 2023 sale to Kite
- NeoPhotonics Corporation in its \$918 million sale to Lumentum Holdings, which closed in August 2022, after scrutiny by the US Department of Justice and Chinese State Administration for Market Regulation, which both cleared the transaction that combined the companies' tunable lasers used in telecommunications networks without any remedy
- Stratasys Ltd., a 3D printer manufacturer, in the 2022 merger of its subsidiary MakerBot with UltiMaker, and earlier acquisitions of MakerBot, Solid Concepts and Harvest Technologies, and Objet Ltd. in its merger with Stratasys Inc. to form Stratasys Ltd.
- ZOLL Medical Corporation, a manufacturer of medical devices, in its \$538 million 2021 acquisition of Itamar Medical, combining the firms' diagnostic and therapeutic devices for sleep disorders, and ZOLL's earlier acquisition of Cardiac Science Corporation, combining the two top manufacturers of automated external defibrillators (AEDs)
- Prasco, as the divestiture buyer of generic drugs, in 2021 to resolve FTC concerns with ANI Pharmaceutical's acquisition of Novitium Pharma, in 2020 to resolve antitrust issues raised by the combination of Pfizer's Upjohn division and Mylan into Viatris, and earlier to resolve issues raised by Teva's acquisition of Allergan's generic drugs business
- Meredith Corporation in the \$2.8 billion sale of its Local Media Group to Gray Television in 2021, with the divestiture of a television station in Flint, Michigan, accomplished through a "fix-it-first" remedy without a consent decree after issuance of second requests; in the \$2.7 billion sale of its National Media Group to IAC's Dotdash; and earlier in its \$2.8 billion acquisition of Time, combining Meredith's magazines with Time's brands
- Arcus Biosciences in its partnership with Gilead Sciences to co-develop and co-commercialize next-generation immunotherapies
- Principia Biopharma, a late-stage biopharmaceutical company focused on developing treatments for immune-mediated diseases, in its \$3.68 billion sale to Sanofi
- Cornerstone OnDemand, a global leader in people development solutions, in its acquisition of talent experience solutions competitor Saba Software for \$1.3 billion
- TiVo in its \$3 billion merger with Xperi, creating a consumer and entertainment technology business and one of the industry's largest intellectual property licensing platforms, obtaining unconditional clearance in the US and Korea, and previously Rovi, a cloud-based analytics technology company, in its combination with TiVo
- Abaxis, a provider of veterinary point-of-care diagnostic instruments, in its \$2 billion acquisition by Zoetis, an animal health company with a competitive business, winning unconditional clearance from the FTC and the German competition authority
- Minute Key, the supplier of self-service key duplication kiosks, in its sale to Hillman, a supplier of back-of-store key cutting equipment, cleared by the FTC after an intense review
- Zeltiq Aesthetics in its \$2.4 billion sale to Allergan, combining Zeltiq's flagship CoolSculpting System, the sales leader in the body contouring segment of medical aesthetics, with Allergan's global aesthetics business

- Johnson Controls in its \$7.5 billion global joint venture with SAIC's Yanfeng Automotive Trim Systems, guiding the transaction through regulatory reviews around the world
- Auspex Pharmaceuticals on antitrust aspects of its \$3.5 billion acquisition by Teva Pharmaceuticals

Anticompetitive practices

- Prevailed on summary judgment, leading to dismissal with prejudice of antitrust claims filed in patent litigation alleging fraud on the patent office and sham litigation in *Ni-Q, LLC v. Prolacta Biosciences, Inc.* (D. Or. 2021)
- Negotiated consent to resolve allegations that broadcast television companies engaged in agreements to share information with competitors in *United States v. Sinclair Broadcast Group, Inc., et al.*
- Persuaded DOJ and state attorneys general to extend and strengthen consent decree against Live Nation/Ticketmaster on behalf of ticketing competitor
- Persuaded FTC to challenge exclusive dealing by a competitor of a veterinary device manufacturer
- Persuaded authorities in a state attorneys general investigation to close multistate investigations of an alleged group boycott in online brokerage industry
- Counseled various pharmaceutical companies on the settlement of patent litigation, including filing notifications under Medicare Modernization Act, product hopping and other practices
- Defeated Sherman Act claims that the acquisition of a competitor turned an existing joint venture into an illegal restraint of trade in *Procaps S.A. v. Patheon, Inc.* (11th Cir. Dec. 30, 2016)
- Obtained dismissal of monopolization and related claims against NetJets in *McCagg v. Marquis Jet Partners*
- Succeeded in assertion of antitrust counterclaims in patent litigation over introduction of the first MP3 player in *RIAA v. Diamond Multimedia Systems*

Consumer protection matters

- Privacy – persuaded FTC to close nonpublic investigations of privacy practices; negotiated consent agreement for ScanScout resolving allegations of deceptive use of Flash cookies
- Marketing practices – convinced FTC to close nonpublic investigations of marketing practices; defended Web.com Group in FTC consumer protection marketing practices investigation, resolved without any monetary relief
- False advertising – obtained favorable settlement for alleged false advertising by a dietary supplement supplier after establishing the efficacy of products

Howard is an active member of the American Bar Association Antitrust Section; he has served on the section council and chaired the section's Federal Civil Enforcement, Intellectual Property and Computer Industry committees. He has testified before Congress, the Antitrust Modernization Commission, and DOJ/FTC hearings on competition and intellectual property law and policy. Howard's community service includes serving as president of the Capital Jewish Museum, chair of the Mid-Atlantic Council of the National Parks Conservation Association, and treasurer of the Julius Rosenwald & Rosenwald Schools National Historical Park Campaign. Howard is also a former president of the Dartmouth Lawyers Association.

Education

Harvard Law School
JD, 1984

Dartmouth College

AB, 1981

Admissions & Credentials

District of Columbia

Rankings & Accolades

Best Lawyers in America: Antitrust Law

BTI Consulting Group - Client Service All-Star

Chambers USA: Antitrust – District of Columbia (2009 – 2024)

Expert Guides to the World's Leading Competition Lawyers

Federal Trade Commission: Award for Superior Service

International Who's Who of Business Lawyers

International Who's Who of Competition Lawyers & Economists

Legal 500: Merger Control

Lexology: Thought Leaders – Competition (December 2024)

Washington, DC Super Lawyers

Washingtonian Magazine: Top Lawyers 2024

Who's Who Legal: Competition