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

Howard Morse is a partner in and former chair of Cooley's Antitrust & Competition practice group. He represents businesses before the US Department of Justice, Federal Trade Commission and state attorneys general in investigations of mergers, acquisitions and joint ventures, as well as alleged monopolization, restraint of trade and unfair and deceptive practices.

Howard has been at the forefront of applying antitrust law to the high-tech sector and the intersection of antitrust and intellectual property law, 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 Hart-Scott-Rodino civil penalty and merger enforcement 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 recently said 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."

Recent matters include:

Mergers and acquisitions:

- NeoPhotonics Corporation in its \$918 million sale to Lumentum Holdings Inc., which closed in August 2022, after close scrutiny by the U.S. Department of Justice and Chinese State Administration for Market Regulation, which both cleared the transaction which combined the companies' tunable lasers used in telecommunications networks, without any remedy
- Stratasys Ltd., the leading 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 leading manufacturers of automated external defibrillators (AEDs)
- Prasco, LLC, as the divestiture buyer of generic drugs, in 2021 to resolve FTC concerns with ANI Pharmaceutical Inc.'s acquisition of Novitium Pharma LLC, in 2020 to resolve antitrust issues raised by

the combination of Pfizer Upjohn and Mylan into Viatrix, and earlier to resolve issues raised by Teva's acquisition of Allergan's generic business

- Meredith Corporation in the \$2.8 billion sale of its Local Media Group to Gray Television, Inc. in 2021, with the divestiture of a television station in Flint, Michigan, accomplished through a "fix-it-first" without a consent decree, and in the \$2.7 billion sales of its National Media Group to IAC's Dotdash.
- Five Prime Therapeutics, a publicly traded clinical-stage biotechnology company focused on developing immune modulators and precision therapies for solid tumor cancers, in its \$1.9 billion sale to Amgen
- 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
- Portola, a commercial-stage biopharmaceutical company focused on life-threatening blood-related disorders, in its \$1.41 billion sale to Alexion Pharmaceuticals
- 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 leading consumer and entertainment technology business and one of the industry's largest intellectual property licensing platforms, obtaining unconditional clearance in the US and Korea
- Sazerac in acquisitions from Constellation Brands (Paul Masson Grande Amber Brandy), Brown-Forman (Early Times, Canadian Mist, Southern Comfort and other brands), and Diageo (Seagrams VO and other brands)
- Abaxis, a leading provider of veterinary point-of-care diagnostic instruments, in its \$2.0 billion acquisition by Zoetis, a leading animal health company with a competitive business, winning unconditional clearance from both the FTC and German competition authority
- Minute Key, the leading supplier of self-service key duplication kiosks, in its sale to Hillman, the leading supplier of back-of-store key cutting equipment, cleared by the FTC after an intense review
- Meredith in its \$2.8 billion acquisition of Time Inc., combining Meredith's leading magazines, including Better Homes & Gardens, Family Circle, and Martha Stewart Living, with Time's brands, including People, InStyle, Real Simple, and Southern Living
- 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
- Rovi in its \$1.1 billion acquisition of Tivo, combining two media and entertainment technology innovators
- 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
- Delphi Automotive in its \$727 million divestiture of its thermal business to MAHLE Behr and its \$1.8 billion acquisition of Hellerman Tyton

Anti-competitive 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)
- Federal investigations – 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 LiveNation / Ticketmaster, on behalf of ticketing competitor
- Persuaded FTC to challenge exclusive dealing by leading competitor of veterinary device manufacturer
- State attorneys general investigations – persuaded authorities to close multistate investigations of alleged group boycott in online brokerage industry
- Various pharmaceutical companies – counsel on settlement of patent litigation, including filing notifications under Medicare Modernization Act, product hopping and other practices
- Defeated Sherman Act claims that 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)
- Monopolization litigation – obtained dismissal of monopolization and related claims against NetJets in *McCagg v. Marquis Jet Partners*
- Antitrust counterclaims in patent litigation – successfully asserted antitrust counterclaims in litigation over introduction of the first MP3 player in *RIAA v. Diamond Multimedia Systems*

Consumer protection matters:

- Privacy – persuaded FTC to close non-public investigations of privacy practices, negotiated consent agreement for ScanScout resolving allegations of deceptive use of Flash cookies
- Marketing practices – convinced FTC to close non-public 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 leading dietary supplement supplier after establishing 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 service as President of the Capital Jewish Museum, as Chair of the Mid-Atlantic Council of the National Parks Conservation Association, and as Treasurer of the Julius Rosenwald & Rosenwald Schools National 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 (2020 – 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

Washington, DC Super Lawyers

Who's Who Legal: Competition