



Partner

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Services

Antitrust/Competition > Chemical > Life Sciences > Hatch-Waxman Litigation >
Cartel Investigations > Merger Litigation: U.S. >
Private Enforcement and Class Actions >

George G. Gordon, former Co-Chair of our antitrust practice group and the life sciences practice, focuses his practice on antitrust litigation, counseling and government investigations. He is a member of both the antitrust/competition and commercial litigation groups. Mr. Gordon's experience includes substantial antitrust class action litigation and general antitrust litigation including a number of significant antitrust actions involving claims of monopolization, unlawful price discrimination, unlawful group boycotts, predatory pricing, and monopoly leveraging. He has also successfully represented clients in a number of non-public investigations by the Federal Trade Commission and the Department of Justice, Antitrust Division.

Mr. Gordon also includes represents life science companies in disputes arising out of licensing, collaboration, asset purchase and other agreements. In addition to representing clients in the arbitration and litigation of such disputes, Mr. Gordon has helped clients successfully negotiate commercial resolutions in these matters.

Since 2004, Mr. Gordon has been recognized as a top antitrust lawyer in *Chambers USA*, a referral guide to leading lawyers in the United States. *Chambers USA* writes that he is "a very good lawyer" who "wins praise as 'one of the top antitrust defense lawyers'" and that he is "smart, reasoned and reasonable." *The Best Lawyers in America* formerly named him Philadelphia Antitrust Law "Lawyer of the Year" and consistently recognizes him for Antitrust Law and Litigation. *Benchmark Litigation*

recognizes him as a national “litigation star” —he is also “recommended” in *Legal 500* and ranked as a “Life Science Star” in *LMG Life Sciences*.

EXPERIENCE

Antitrust Class Action Litigation

- *In re Opana ER Antitrust Litigation* (N.D.Ill.). Mr. Gordon is lead counsel for **Endo Pharmaceuticals** in antitrust actions filed by putative classes of direct and indirect purchasers, as well as opt-out retailers, based on an alleged “reverse payment” patent litigation settlement and so-called “product hopping.”
- *In re Generic Drugs Price-Fixing Litigation* (E.D. PA). Mr. Gordon is representing a **generic drug manufacturer** in a price-fixing class action which includes more than 25 generic drug products.
- *In re Baby Products Antitrust Litigation* (E.D.Pa.). Mr. Gordon was lead counsel for **Medela, Inc.** in a class action and related retailer actions based on allegations of a vertical resale price maintenance agreement.
- *In re Relafen Antitrust Litigation* (D.Mass.). Mr. Gordon was one of the lead counsel for a **large Fortune 100 research-based pharmaceutical company** in a series of monopolization and attempted monopolization cases, including class and individual actions, based on allegations of sham patent litigation and unlawful intellectual property strategies. The cases were settled.
- *In re Paxil Antitrust Litigation* (E.D.Pa.). Mr. Gordon was one of the lead counsel for a **large Fortune 100 research-based pharmaceutical company** in a series of monopolization and attempted monopolization cases, including class and individual actions, based on allegations of sham patent litigation and unlawful intellectual property strategies. The cases were settled and related FTC investigation was closed without further action.
- *Weber v. Elan Corp. plc (Naprelan Antitrust Litigation)* (E.D.Pa.). Mr. Gordon was the lead counsel representing a **defendant pharmaceutical manufacturer** in a series of antitrust class actions arising out of efforts to enforce intellectual property and the settlement of patent litigation. The case was dismissed after Elan prevailed in the underlying patent litigation.
- *Painters District Council No. 30 v. Pfizer, Inc. (Accupril Antitrust Litigation)* (D.N.J.). Mr. Gordon was one of the lead counsel representing a **Fortune 100 branded pharmaceutical company** in this series of class actions alleging fraud on the PTO and sham litigation relating to the prescription drug Accupril. The cases were dismissed after Pfizer prevailed in the underlying patent litigation.
- *Turicentro v. American Airlines, Inc.* (E.D.Pa.). Mr. Gordon represented **American Airlines** in this antitrust action alleging a conspiracy to fix the price of the commissions paid to foreign travel agents. The district court granted the defendants’ motions to dismiss the action. On appeal, Mr. Gordon successfully presented oral argument to the Third Circuit on behalf of all of the airline defendants.
- *Detroit Diesel Antitrust Litigation* (E.D.Pa.). Mr. Gordon represented a **group of fifteen distributors** as defendants in a case involving allegations of a group boycott and resale price maintenance conspiracy in markets for the maintenance of diesel engines and the

supply of spare parts for diesel engines. The case was resolved favorably to the defendants.

- *In re Baby Food Antitrust Litigation* (D.N.J.). Mr. Gordon represented a **leading baby food manufacturer** in this nationwide class action involving allegations of price fixing in the baby product industry. He was the principal author of the successful summary judgment motion.
- *In re Graphite Electrodes Antitrust Litigation* (E.D.Pa.). Mr. Gordon represented a **manufacturer of graphite electrodes** in multiple civil lawsuits and governmental investigations by the United States Department of Justice, Canadian antitrust authorities, and the European Commission regarding an alleged international price fixing and market allocation cartel.
- *In re Airline Ticket Commission Antitrust Litigation* (D.Minn.). Mr. Gordon represented an **airline** in this nationwide class action alleging that the defendant airlines fixed the commissions paid to travel agents. He was heavily involved in all aspects of the client's defense, including pre-trial discovery, working closely with economic experts, and the preparation of the case for trial. The case was resolved on favorable terms on the eve of trial.

Other Antitrust Litigation

- *Anderson News v. Curtis Circulation, et al.* (S.D.N.Y. and Second Circuit). Mr. Gordon represented **Curtis Circulation** in this multi-defendant antitrust action based on allegations of a group boycott in the magazine distribution industry. Early in the action, Mr. Gordon won a motion to dismiss, but that decision was reversed on appeal by the Second Circuit. Mr. Gordon successfully argued on behalf of defendant for summary judgment both in the trial court and on appeal in the Second Circuit.
- *Federal Trade Commission v. Endo Pharmaceuticals, Inc., et al.* (E.D.Pa.). Mr. Gordon defended **Endo Pharmaceuticals** in *Federal Trade Commission v. Endo Pharmaceuticals, Inc., et al.*, the FTC's latest effort to challenge "reverse payment" patent litigation settlements that allegedly delay generic competition. The FTC's lawsuit covers two separate pharmaceutical products, and follows on the heels of two ongoing private multidistrict litigations challenging the lawfulness of the same patent settlements.
- *TI Investment Services et al v. Microsoft* (D.N.J.). Mr. Gordon secured dismissal of various antitrust and related state law claims filed against client **Microsoft** by World Phone Internet Services Pvt. Ltd., an Indian company that provides Voice over Internet Protocol (VoIP) services in India, and TI Investment Services, LLC, World Phone's largest shareholder. Among other things, the plaintiffs had alleged that Skype (now a division of Microsoft) was attempting to monopolize and/or conspiring to restrain trade in a market for VoIP services between India and the United States by offering those services without the license required by Indian law.
- *Actelion Pharmaceuticals v. Apotex* (D.N.J.). Mr. Gordon was lead counsel in antitrust litigation based on demands by generic drug manufacturers that **Actelion** supply samples of a drug product covered by an FDA-mandated REMS program to generic companies.
- *Anaheim Manufacturing Co. v. Emerson Electric* (C.D. Cal.). Mr. Gordon was lead counsel for **Anaheim Manufacturing Company** in its antitrust case against Emerson Electric Company, based on allegations that Emerson maintained its monopoly power through a combination of exclusionary payments to distributors and retailers, actual or de facto multi-year exclusive dealing arrangements, threats, and other unlawful and coercive means, all aimed at suppressing competition, preventing market entry and expansion by rivals, maintaining higher prices, and stifling innovation. The case was favorably settled.

- *United Magazine Company v. Murdoch Magazine Distribution, Inc.* (S.D.N.Y.). Mr. Gordon is lead counsel representing **a national distributor of magazine publications** in this industry-wide antitrust action involving allegations of price discrimination in violation of Section 2(a) of the Robinson-Patman Act. The case was dismissed on summary judgment, which has been affirmed on appeal.
- *Congress of California Seniors v. Par Pharmaceuticals, et al.* (Calif. Sup. Ct.). Mr. Gordon is the lead national counsel for **a large Fortune 100 research-based pharmaceutical company** in this “§17200” action based on an allegedly unlawful “authorized generic” agreement between a branded and generic manufacturer. The case has been dismissed.
- *The Curtis Circulation Company v. Bay News, Inc.* (D.Ore.). Mr. Gordon was lead counsel representing **a national distributor of magazine publications** in this antitrust action involving allegations of price discrimination in violation of Section 2(a) of the Robinson-Patman Act. The case was dismissed.
- *Advo, Inc. v. Philadelphia Newspapers, Inc.* (E.D.Pa.). Mr. Gordon represented **a newspaper publisher** in this antitrust action in which the plaintiff alleged that the defendant publisher had engaged in predatory pricing and monopoly leveraging. Mr. Gordon played a key role in obtaining summary judgment in favor of the defendant.

Other Life Sciences Disputes

- **A European pharmaceutical company** as respondent in an AAA-ICDR arbitration with a biotech involving the termination of a development agreement. Our client was able to terminate the agreement, retain certain IP rights as well as potential royalty rights.
- **A U.S. chemical company** as plaintiff in U.S. litigation over the termination of a long-term supply agreement. Our client obtained a settlement including payments totaling over US \$100 million.
- **A European pharmaceutical company** as respondent and antitrust-counterclaimant in a AAA-ICDR arbitration with a U.S. pharmaceutical company involving the right to acquire a U.S. biotech and develop a new drug product. Our client was able to acquire the target biotech and proceed with development of the new drug.
- **A European biotech company** as plaintiff in U.S. litigation seeking the payment of milestones under an asset purchase agreement. Our client received a payment for the relevant milestones.
- **A European pharmaceutical company** seeking to enforce a "commercially reasonable efforts" obligation in a marketing and development agreement. Our client succeeded in amending the agreement to add multi-year performance targets and buy-back rights if they are not met.
- **A European biotech company** seeking to enforce a "commercially reasonable efforts" obligation in a development agreement. Development proceeded, resulting in the filing of an NDA and milestone payments for our client.
- **A European pharmaceutical company** as claimant in a AAA-ICDR arbitration with a U.S. pharmaceutical company over the termination of a supply agreement. The matter is on-going.

- Brandeis University, B.A., Economics, 1988, *cum laude* with Honors
- University of Pennsylvania Law School, J.D., 1991
- The London School of Economics and Political Science, High Commendation, 1987

ADMISSIONS

- Pennsylvania
- New Jersey
- Supreme Court of Pennsylvania
- Supreme Court of the United States
- United States Court of Appeals for the Second Circuit
- United States Court of Appeals for the Third Circuit
- United States District Court for the District of New Jersey
- United States District Court for the Eastern District of Michigan

MEMBERSHIPS

- **American Bar Association's** Litigation and Antitrust Sections
- Former co-chair of the Intellectual Property Committee of the **American Bar Association's** Section of Antitrust Law
 - Former chair of the committee's Federal Circuit Task Force (examining the increasing role of the Federal Circuit in making patent-antitrust law)

SPEAKING ENGAGEMENTS

- **Dechert's 2019 Annual Antitrust Spring Seminar** — Philadelphia, PA (March 26, 2019)
Speaker, "Pharma Pricing Pitfalls" and "When Antitrust Litigation is an Existential Threat."
- **ACI 12th Annual Paragraph IV Disputes Conference** — New York, NY (April 23, 2018)
Speaker, "Antitrust and Economic Considerations for Settlements: May It Please the Court, and the FTC" — a panel on industry challenges in light of recent court decisions and the Commission's stance with respect to designing settlement agreements.

- **NAPABA Northeast Regional Conference 2017** — Philadelphia, PA (September 9, 2017)

Presenter, "BioBucks: CVRs, Milestones, and CRE in Life Sciences Transactions."

- **ACI 11th Annual Paragraph IV Disputes Conference** — New York (April 24, 2017)

Speaker, "The Politics of Pharmaceutical Patents in the New Administrations: Town Hall" — a panel on topics such as how new PTO leadership may impact pharmaceutical patents, and how changes at the FDA and its patent agency HHS may affect Orange Book patents.

- **2016 New AG Orientation and NAAG Fall Meeting** — Fort Lauderdale, FL (November 29, 2016)

Speaker, panel on pharmaceutical-antitrust issues.

- **ACI 10th Annual Paragraph IV Disputes Conference** — New York (April 26, 2016)

Presenter, "Settlement Anthology; A Review of Pharmaceutical Patent Settlement Jurisprudence since Actavis and its Practical Applications."

- **Exclusionary or Not? Product Hopping and REMS** —ABA Section of Antitrust Law Spring Meeting 2016, Washington, D.C. (April 6, 2016)

Speaker, "Exclusionary or Not? Product Hopping and REMS."

- **The Proper Role of Economic Experts** —ABA/JEP Antitrust Law & Economics Institute for Judges, Arlington, VA (October 7, 2012)
- **The Evolution of Legal Project Management** — Project Management CLE Institute, Philadelphia, PA (September 13, 2012)
- **Realigning the In-House/Outside Counsel Relationship in Complex Actions** — Litigation Project Management 2011, New York, NY (March 3, 2011)
- **Discussing Reverse Payment Settlements and Alternative Agreements** — Pharmaceutical Patent Protection and Enforcement Conference, Baltimore, MD (September 28, 2010)
- **Forward Thinking: Preparing for Tag-a-Long Claims by Crafting Defense Strategies in a Manner that will Minimize Exposure to Follow-On Litigation** —ACI's Drug and Device Forum on Defending Consumer Fraud Economic Injury Claims, Philadelphia, PA (September 23, 2008)
- **Strategies and Tactics for Handling Antitrust Litigation and Investigations** —2005 In-House Counsel Forum on Pharmaceutical Antitrust, Washington, DC (May 24, 2005)
- **The In-House Counsel Forum on Pharmaceutical Antitrust** —American Conference Institute, Washington, DC (May 24, 2005)
- **Orange Book and Other Patent Extensions Under FTC Review and the Effect on Generic Product Introduction** —CBI's 3rd Annual Forum on Generic Drugs, Washington, DC (November 19, 2003)
- **Antitrust Enforcement: Cutting Edge Lessons From the Pharmaceutical Industry** — American Bar Association Section of Antitrust Law Spring Meeting, Washington, DC (April 3, 2003)

- **Recent Pharmaceutical Industry Cases Raising Intellectual Property--Antitrust Issues** —American Bar Association, Section of Antitrust Law, Philadelphia, PA (April 3, 2003)
- **Antitrust Implications Under the Hatch-Waxman Act** —The Food and Drug Institute's Hatch-Waxman Update 2002, Washington, DC (December 5, 2002)
- **Developments in Antitrust and Intellectual Property Law** —American Bar Association Antitrust Section Annual Meeting, Washington, DC (August 13, 2002)
- **Federal Circuit Jurisprudence: Jurisdiction, Choice of Law, and Competition Policy Perspectives** —The Federal Trade Commission and the Antitrust Division of the Department of Justice Joint Hearings on Competition and Intellectual Property Law and Policy in the Knowledge-Based Economy, Washington, DC (July 11, 2002)
- **The Extraterritorial Reach of State and Federal Antitrust Laws** —American Bar Association Antitrust Section Brown Bag, Washington, DC (June 18, 2002)
- **Licensing: What Ever Happened to the Nine No-Nos?** —ABA Antitrust Section and Intellectual Property Law Section, San Francisco, CA (June 6, 2002)