



Retired Partner

Philadelphia | Cira Centre, 2929 Arch Street,
Philadelphia, PA, United States of America 19104-2808

T +1 215 994 2660 | F +1 215 994 2222

stephen.stack@dechert.com

Services

Antitrust/Competition > Life Sciences >

Stephen A. Stack, Jr., a member of Dechert's trial team and former co-chair of Dechert's antitrust/competition group, has 40 years of experience covering the full range of antitrust activities from litigation to preventive counseling to practice before U.S. federal and state and European enforcement agencies. A significant part of his recent practice has been focused in the areas of intellectual property antitrust and mergers.

Mr. Stack regularly counsels pharmaceutical and chemical clients on antitrust issues relating to patenting strategies, licensing, research and development collaborations, manufacturing joint ventures, patent litigation strategies, settlement of patent litigation and interference proceedings, and sales and marketing activities. He also counsels clients on antitrust problems under both U.S. and European competition laws, including intellectual property, mergers, joint ventures, price discrimination, vertical restrictions, and compliance programs.

Since 2003, Mr. Stack has been recognized as a leading lawyer for antitrust in *Chambers USA*, a referral guide to leading lawyers in the United States based on the opinions of their peers and clients. He also drew praise from the *The Legal 500* (U.S.), which noted in its 2009 edition that "he offers a 'rare knowledge of global competition standards, and is one of the few American lawyers who can function effectively as the global manager of multiple global merger filings.'" Mr. Stack is also listed as a "Life Sciences Star" in *LMG Life Sciences*.

Mr. Stack was the editor of the Issues in Antitrust and co-editor of the forthcoming Pharmaceutical Antitrust Handbook, both of which were published by the American Bar Association Antitrust Section. He has also been called upon to give expert testimony at several government hearings, including:

- Testified at the hearings of the Antitrust Modernization Commission in Washington, D.C. on proposals to reform the patent laws (November 8, 2005).
- Testified by invitation at the FTC/DOJ hearings on Competition and Intellectual Property Law and Policy in the Knowledge-Based Economy, “A Competition View of Patent Settlements” (May 2, 2002).
- Testified by invitation at the FTC Hearings on Joint Ventures (June 5, 1997).
- Testified by invitation at the Federal Trade Commission’s Hearings on Competition Policy in the New High-Tech, Global Marketplace, “How Innovation Occurs in the Pharmaceutical Industry: Lessons for Antitrust in Preserving Competition in Innovation” (October 23, 1995).

Before joining Dechert, Mr. Stack was a staff attorney with the Federal Trade Commission’s Bureau of Competition.

EXPERIENCE

Merger-Related Government Investigations

- Mr. Stack represented **FMC Corporation** in a global competition law review of its proposed acquisition of ISP Technologies’ hydrocolloids business, developing an innovative strategy that resulted in first-phase clearance of the transaction despite difficult issues in the UK and Germany, the two most critical jurisdictions reviewing the transaction
- Mr. Stack represented **Pfizer Inc.** in an FTC investigation into the US\$16 billion sale of its consumer products division to a strategic buyer. The transaction involved substantial compliance with a Hart-Scott-Rodino second request and negotiation of a consent order to divest three of the seller’s products. The entire process took less than five months from signing to closing.
- Mr. Stack represented **Airgas, Inc.**, an industrial gas company, in the successful purchase of assets required to be divested pursuant to an FTC consent order resulting from another company’s acquisition. The purchase price for the assets exceeded US\$500 million, making it one of the largest divestitures to settle an FTC merger investigation.
- Mr. Stack represented the acquiring company in a US\$5 billion chemical industry acquisition, in which he negotiated a consent order providing for a divestiture allowing the acquisition to proceed. The consent order required divestiture of only one of a number of overlapping product lines, and the entire Hart-Scott-Rodino process was completed in less than 80 days--far more quickly than is usual for cash tender offers receiving a second request.
- Mr. Stack represented **a regional supermarket chain** in its acquisition of another chain with overlapping operations in four local markets. He negotiated a buyer-in-hand consent order allowing the deal to close within sixty days, and the FTC staff advised that there have been few, if any, FTC consent orders that have been finalized this quickly.
- Mr. Stack represented **Crown Cork & Seal** in obtaining a clearance by the European Commission of Crown’s US\$5 billion acquisition of Carnaud MetalBox. At the time, this was the largest acquisition of a European company by a U.S. company to be cleared by the EU Commission. The matter involved four different product markets and went through

full Phase II proceedings, including a two-day hearing in Brussels. The matter was resolved by an undertaking to divest certain aerosol can manufacturing facilities, the Commission having found no violation with respect to the other markets at issue.

- Mr. Stack represented **Amerisource Health Corporation** in its proposed acquisition of McKesson Corporation. The case involved complex issues of competitive effects, market definition, and efficiency claims. The Federal Trade Commission ultimately obtained a preliminary injunction halting the transaction. This was one of two acquisitions in the same industry that were investigated on parallel tracks and litigated in a single proceeding.
- Mr. Stack represented **Rohm and Haas Company** in its acquisition of the emulsion polymer business of Unocal. In order to resolve the staff's concerns with one product line, Mr. Stack negotiated one of the first "buyer-in-hand" consent orders entered by the FTC -- a form which thereafter became the FTC's preference for divestiture consent orders.

Non-Merger Government Investigations

- Mr. Stack represented **a major pharmaceutical company** in an FTC investigation into alleged conduct to prevent generic competition for one of its flagship products. The Commission closed the investigation without taking any action against the client.
- Mr. Stack represented **a paper packaging manufacturer** in a Federal Trade Commission investigation into allegations of a conspiracy to restrict output. The case against his client was dropped, although one of the other industry members was charged with an unlawful invitation to collude.
- Mr. Stack represented **a manufacturer of a pharmaceutical excipient** in a Federal Trade Commission investigation into an alleged market allocation agreement. The matter was resolved by consent order.
- Mr. Stack has handled numerous merger matters before both the Federal Trade Commission and the Department of Justice, including several deals valued in excess of US\$1 billion, some involving consent orders and many others involving presentations that have successfully resolved competitive issues without enforcement actions and, in most cases, without a second request.
- In 2000, Mr. Stack served as an advisor to the Presidential transition team on the Advisory Committee on the Department of Justice.

EDUCATION

- Yale University, B.A., 1967, *cum laude*, with honors
- University of Pennsylvania Law School, J.D., 1970, *cum laude*

ADMISSIONS

- Pennsylvania
- Supreme Court of Pennsylvania

- Supreme Court of the United States
- United States Court of Appeals for the Third Circuit
- United States Court of Appeals for the Federal Circuit
- United States Court of Appeals for the District of Columbia Circuit
- United States District Court for the District of Columbia
- United States District Court for the Eastern District of Pennsylvania

MEMBERSHIPS

- Member of the American Bar Association Antitrust Section for over 35 years. His positions within the Antitrust Section include:
 - Co-Chair, Content Committee (2016-present)
 - Co-Chair, Fall Forum (2003-2005)
 - Co-Chair, Pharmaceutical Task Force (2001-2003)
 - Program Officer (1999-2001)
 - Vice-Chair of the Antitrust Section (1993-1994)
 - Council Member (1989-1992, 1996-1999)
 - Chair, Continuing Legal Education Committee (1992-1993)
 - Chair, Federal Trade Commission Committee (1986-1989)
 - Member, FTC/DOJ Working Group (1994-1996)
- Former chair of the Antitrust Law Committee of the American Intellectual Property Law Association (AIPLA), where he has served on a special committee on the Hatch-Waxman Act
- Formerly co-chaired, planned, and moderated AIPLA roundtables with staff members of both the FTC and the DOJ regarding IP issues related to standards development

SPEAKING ENGAGEMENTS

- **Avoiding Antitrust Violations in Mergers and Acquisitions** — ACI's 4th Annual In-House Counsel Forum on Pharmaceutical Antitrust, National Harbor, MD (May 21, 2008)
- **Carefully Drafting and Executing Collaborative Agreements That Pass Antitrust and Competition Law Scrutiny** — ACI's Pharmaceutical Antitrust, New York, NY (May 16, 2007)
- **Licensing, Co-Promotion and Joint Development Agreements** — American Conference Institute, Pharmaceutical Antitrust, New York, NY (May 16, 2007)
- **Standards Setting, Intellectual Property and Antitrust** — AIPLA Spring Meeting, Boston, MA (May 10, 2007)
- **Joint Ventures and M&A Transactions** — LSI's Pharmaceutical Antitrust Conference, Washington, DC (April 26, 2007)
- **Pharmaceutical Mergers** — Law Seminars International, Pharmaceutical Antitrust, Washington, DC (April 26, 2007)

- **HSR Review Process** — Philadelphia Bar Association's M&A Committee, Philadelphia, PA (February 21, 2007)
- **Pharmaceutical Industry Mergers, Strategic Alliances, and Joint Ventures** — American Conference Institute 2nd Annual In-House Counsel's Forum on Pharmaceutical Antitrust, Philadelphia, PA (April 24, 2006)
- **Avoiding Antitrust Pitfalls in In-Licensing, Co-Development, and Co-Promotion** — ACI's Structuring, Negotiating, and Managing Win/Win Pharma and Biotech In-Licensing, Co-Development, and Co-Promotion Agreements, Philadelphia, PA (November 14-15, 2005)
- **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)
- **The Mothball Fleet of IP Misuse Law** — American Intellectual Property Law Association 2004 Annual Meeting, Washington, DC (October 15, 2004)
- **Antitrust Aspects of IP Licensing and Litigation** — New York Corporate Counsel Association, New York, NY (September 21, 2004)
- **Antitrust Policy and IP Practice: Are They on a Collision Course?** — American Bar Association Antitrust Section Annual Fall Forum, Washington, DC (November 18, 2003)
- **The Impact of Orange Book and Other Patent Extension Strategies that Are Under FTC Investigation** — The Center for Business Intelligence 2nd Annual Forum on Generic Drugs, Washington, DC (November 21, 2002)